

CERTAIN FRESH ATLANTIC GROUNDFISH FROM CANADA

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Determination of the Commission in
Investigation No. **[REDACTED]**
(Preliminary) Under the Tariff
Act of 1930, Together With
the Information Obtained in
the Investigation



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UNITED STATES INTERNATIONAL TRADE COMMISSION

COMMISSIONERS

Paula Stern, Chairwoman
Susan W. Liebeler, Vice Chairman
Alfred E. Eckes
Seeley G. Lodwick
David B. Rohr

This report was prepared by:

David Coombs, Investigator
Amy M. Salamone, Financial Analyst
Roger Corey, Commodity-Industry Analyst
Terry Planton, International Economist
Maureen Muldoon, Economic Assistant
Randi Field, Attorney

Lynn Featherstone, Supervisory Investigator

Address all communications to
Kenneth R. Mason, Secretary to the Commission
United States International Trade Commission
Washington, DC 20436

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Note.--Information which would disclose confidential operations of individual concerns may not be published and therefore has been deleted from this report. These deletions are marked by asterisks.

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, DC

Investigation No. 701-TA-257 (Preliminary)

CERTAIN FRESH ATLANTIC GROUND FISH FROM CANADA

Determination

On the basis of the record 1/ developed in the subject investigation, the Commission determines, pursuant to section 703(a) of the Tariff Act of 1930 (19 U.S.C. § 1671b(a)), that there is a reasonable indication that an industry in the United States is materially injured by reason of imports from Canada of certain fresh whole Atlantic groundfish, 2/ provided for in items 110.15 and 110.35 of the Tariff Schedules of the United States (TSUS), which are alleged to be subsidized by the Government of Canada, and that there is a reasonable indication that an industry in the United States is threatened with material injury by reason of imports of certain fresh Atlantic groundfish fillets, 3/ provided for in items 110.50, 110.55, and 110.70 of the TSUS, which are alleged to be subsidized by the Government of Canada.

Background

On August 5, 1985, a petition was filed with the Commission and the Department of Commerce by the North Atlantic Fisheries Task Force, Gloucester,

1/ The record is defined in sec. 207.2(i) of the Commission's Rules of Practice and Procedure (19 CFR § 207.2(i)).

2/ For purposes of this investigation, the term "certain fresh whole Atlantic groundfish" covers fresh and chilled cod, haddock, hake, and flounders and other flatfish (except halibut), whether whole or processed by removal of heads, viscera, fins, or any combination thereof, but not otherwise processed (TSUS items 110.15 and 110.35).

3/ For purposes of this investigation, the term "certain fresh Atlantic groundfish fillets" covers fresh and chilled cod, haddock, pollock, hake, and flounders and other flatfish (except halibut) processed otherwise than by only the removal of heads, viscera, fins, or any combination thereof (TSUS items 110.50, 110.55, and 110.75).

Massachusetts, alleging that an industry in the United States is materially injured or threatened with material injury by reason of subsidized imports of fresh and chilled cod, haddock, pollock, hake, and flatfish (including flounders and sole) in whole and fillet forms, from Canada. Accordingly, effective August 5, 1985, the Commission instituted preliminary countervailing duty investigation No. 701-TA-257 (Preliminary).

Notice of the institution of the Commission's investigation and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the Federal Register of August 14, 1985 (50 FR 32775). The public conference was held in Washington, DC, on August 28, 1985, and all persons who requested the opportunity were permitted to appear in person or by counsel.

VIEWS OF THE COMMISSION

We determine that there is a reasonable indication that an industry in the United States is materially injured by reason of imports of fresh whole Atlantic groundfish which are allegedly subsidized by the Government of Canada. We also determine that there is a reasonable indication that an industry in the United States is threatened with material injury by reason of imports of fresh Atlantic groundfish fillets which are allegedly subsidized by the Government of Canada.

Definition of like product/domestic industry

As a threshold matter, we are required to define the scope of the domestic industry to be examined in this countervailing duty investigation. The term "industry" is statutorily defined in section 771(4)(A) as "the domestic producers as a whole of a like product, or those producers whose collective output of the like product constitutes a major proportion of the total domestic production of that product." 1/ "Like product," in turn, is defined in section 771(10) as a "product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation" 2/

The imported products in this investigation are fresh whole and fresh fillets of Atlantic groundfish including cod, haddock, pollock, hake, and flatfish (including flounder and sole). 3/ The domestic fresh whole Atlantic

1/ 19 U.S.C. § 1677(4)(A).

2/ 19 U.S.C. § 1677(10).

3/ 50 Fed. Reg. 35281 (Aug. 30, 1985).

groundfish and fresh Atlantic groundfish fillets do not differ from the imported products. 4/

The term groundfish applies to several species living on or near the seabed. The various species of groundfish differ in appearance and flavor, and they command varying prices in the marketplace. 5/ Nonetheless, they all feed on the sea bottom, are harvested in the same manner by the same fishing vessels, and there is some substitutability among species in the marketplace. 6/ Therefore, they all have been included in the like products as defined in this investigation.

One question that arises is whether certain species of groundfish that are not named in the petition and not subject to investigation--namely cusk, redfish, catfish, and whiting--should be included within the definitions of the like products. We do not find that the excluded species are substantially different in characteristics and uses from the species included by the

4/ The argument has been raised that the Canadian product is a lower quality and produces less yield than the comparable New England product. Transcript of the conference (Tr.) at 166-69, 182-83; Brief of Fisheries Council of Canada at 3-4; Submission of the American Seafood Distributors Association at 8. The statute, however, does not require the "like product" to be identical to the article subject to investigation. Any alleged quality differences between the imported and domestic fresh Atlantic groundfish are not sufficient to make them unlike. See Cotton Shop Towels from Pakistan, Inv. No. 701-TA-202 (Final), USITC Pub. 1490 at 4 (1984). We, therefore, determine that the domestic fresh Atlantic groundfish are like the imported fresh Atlantic groundfish.

5/ Petition for the Imposition of Countervailing Duties on Certain Fresh Atlantic Groundfish from Canada (Petition) at 14.

6/ Tr. at 59.

petitioner. Therefore, for this preliminary investigation, we included these species within the definition of the like product. 7/ 8/ 9/

Finally, we must determine whether fresh whole Atlantic groundfish and fresh groundfish fillets are two like products. In this respect, we note that the characteristics of the products are different in that fillets reflect the additional processing of the fish to remove the skeleton, head, and generally, the skin. The products also have different uses. Whole groundfish are harvested by fishermen generally for the purpose of being sold to processors. Groundfish fillets primarily are sold through wholesalers and brokers to retail outlets, restaurants, and institutional end-users (e.g., schools and hospitals). We, therefore, determine that there are two like products: (1) fresh whole Atlantic groundfish and (2) fresh Atlantic groundfish fillets.

7/ The Fisheries Council of Canada has alleged that hake should be excluded from the definition of like product because, inter alia, hake primarily is used for salting whereas the other species primarily are used for fresh or frozen. Brief of the Fisheries Council of Canada at 17-18. Based upon the limited data available, we are unable to determine the propriety of excluding hake from the definition of the like products. We will further examine this question in the event that there is a final investigation.

8/ A further question that arises is whether Pacific groundfish are like Atlantic groundfish. Apparently, Pacific cod is not equivalent in taste or consumer preference to Atlantic cod. Tr. at 59. Further, according to the petitioner, most Pacific cod goes into frozen fish products for brooding and frying, such as fish and chips, where quality, texture, and taste characteristics are less significant than in the fresh fillet market. Additionally, Pacific pollock is not comparable to Atlantic pollock and most Pacific pollock is used in the production of highly processed fish products such as surimi, which is marketed as artificial crabmeat or scallops. We, therefore, do not include Pacific groundfish within the definition of the like products.

9/ Also excluded from this investigation were frozen groundfish. We found the following differences exist between fresh and frozen groundfish: (1) frozen fish requires further processing; (2) frozen fish has different characteristics than fresh fish; (3) frozen fish is marketed through different channels; and (4) frozen fish consistently sells at lower prices than fresh fish. Petitioner's Post-Conference Brief at 5. We, therefore, determine that frozen groundfish, whether in whole or fillet form, is not like fresh groundfish.

The relevant domestic industry which produces fresh whole Atlantic groundfish consists of harvesters. Petitioner has alleged that the fresh Atlantic groundfish fillet industry includes both the harvesters and the processors. 10/ For the purpose of this preliminary investigation, we find that the domestic industry which produces fresh Atlantic groundfish fillets consists of both the harvesters and the processors of the fillets. 11/

Our preliminary determination that harvesters should be included in the domestic industry producing groundfish fillets primarily is based upon the fact that there is a single, continuous line of production. 12/ Approximately 90 percent of the raw product, fresh whole groundfish, is sold in the fresh fillet market and the primary purpose of harvesting fresh whole groundfish is to produce fresh groundfish fillets.

In certain prior agricultural investigations, the Commission also assessed whether there was a direct economic tie between the growers and the

10/ Petition at 4; Post-Conference Brief of Petitioner at 6.

11/ Chairwoman Stern and Commissioner Rohr determine that the domestic industry producing groundfish fillets consists exclusively of the processors of the fillets.

12/ Vice Chairman Liebler notes that in Live Swine and Pork (Additional and Dissenting Views of Vice Chairman Liebler), Inv. No. 701-TA-224 (Final), USITC Pub. 1733 (July 1985), she questioned the two-prong test used by the Commission in agricultural cases and asked parties to brief the issue what standards should be used in deciding whether to include growers in the industry producing the processed product. In that opinion, she stated that based on the statutory language it might never be appropriate to include growers in the industry producing the processed product. On the other hand, if sometimes it is appropriate to include growers in the industry producing the processed product, there is some basis for the single line of production prong of the test, but not requiring the economic integration prong of the test as it has been interpreted. Consequently, in this preliminary investigation, because this issue has not yet been resolved, Vice Chairman Liebler included the growers in the industry producing the processed product based on a single line of production. She will consider the broader issue if this case returns for a final investigation.

processors. The Commission focused on the integrated nature of the relationship between the growers and the processors either in the form of interlocking ownership, economic integration, or profit participation by both groups. 13/ This second factor was used to distinguish those situations in which there was a single industry from those in which the growers were merely suppliers of the raw material.

We do not feel that the indicia relied upon in prior investigations to ascertain the existence of a single industry necessarily are exhaustive. Rather, each situation must be analyzed on a case-by-case basis bearing in mind the nature of the particular industry involved. There were very limited

13/ Chairwoman Stern and Commissioner Rohr have determined for the purposes of this preliminary investigation that the domestic industry producing groundfish fillets consists of the processors of the fillets. They note that traditionally the Commission has looked at two factors in analyzing whether the growers or harvesters of the raw material should be included within the definition of the domestic industry producing the processed product: (1) whether the raw agricultural product enters a single, continuous line of production resulting in one end product and (2) whether a direct economic tie exists between growers and processors. Commissioner Rohr further notes that in both Live Swine Pork from Canada, Inv. No. 701-TA-224 (Final), USITC Pub. 1733 (July 1985) and in Sugar Content of Certain Articles from Australia, Inv. No. 104-TAA-26, USITC Pub. 1748 (Sept. 1985), this second factor, economic integration, may be shown to exist even in the absence of formal legal relationships.

Clearly, the first factor is met in this case with about 90 percent of fresh whole groundfish sold in the fresh fillet market. However, with regard to the second factor, the only indication of formal economic integration is the Point Judith Fishermen's Cooperative in Rhode Island, representing only 3-4 percent of the domestic industry. Some testimony also has been given alleging that about 90 percent of New England fish are sold in personal, verbal, informal arrangements between harvesters and processors. There are no contracts which evidence these informal arrangements. Failing the receipt of additional information, such limited and uncorroborated testimony is not sufficient to substantiate the existence of such informal arrangements. At this time there is also no evidence of how such informal arrangements, if they do exist, have resulted in an integration of the economic interests of the two groups. Further, a number of processors have indicated their opposition to the petition. This would suggest that there are divergent economic interests between harvesters and processors and that they do not appear at this time to function as one industry.

data available in this investigation. 14/ We expect to reexamine whether the harvesters should be included in the domestic industry producing groundfish fillets in the event that there is a final investigation.

Regional industries--Petitioner has alleged that there are two regional industries: one consisting of the fishermen producing fresh Atlantic groundfish found in seaports in the Atlantic coastal states from Maine to Virginia and the other consisting of the processors in the region. 15/ Section 771(4)(C) states that "in appropriate circumstances, the United States, for a particular product market, may be divided into two or more markets and the producers within each market may be treated as if they were a separate industry" 16/ In making a regional industry determination, the Commission must decide whether the producers within the region sell "all or almost all" of their production of the like product in question in that market, and whether the demand in the regional market is supplied, to any substantial degree, by producers of the product in question located outside

14/ Based upon the information developed thus far, it appears that there is some informal, economic integration between the harvesters and the processors. At the conference, testimony was introduced that approximately 90 percent of New England fish is sold through reciprocal arrangements between harvesters and processors. Essentially, these are guaranteed, informal arrangements of trust whereby both parties do favors for one another and form prices hands on, day-by-day. Tr. at 175-78. We expect additional information on these reciprocal arrangements or other indicia of an integrated relationship to be forthcoming in the event that there is a final investigation. Finally, we note the existence of some economic integration with respect to the Point Judith Fishermen's Cooperative in Rhode Island which represents approximately 3-4 percent of the domestic industry.

15/ This region includes Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, New York, Pennsylvania, New Jersey, Delaware, Maryland, the District of Columbia, and Virginia. Tr. at 131.

16/ 19 U.S.C. § 1677(4)(C).

the region. The Commission must then find that there is a concentration of allegedly subsidized imports within the regional market, and that all, or almost all, of the producers within that market are materially injured or threatened with material injury, or that the establishment of an industry is being materially retarded by reason of subsidized imports. The data available in this preliminary investigation were insufficient to allow us to determine whether regional industries exist.

Condition of the domestic industries 17/

In assessing the condition of the national domestic industries, the Commission considered, among other factors, the trends in production, shipments, employment, productivity, and profits. 18/ In this investigation, the Commission considered such information concerning the condition of the domestic industries for the period covering 1982 to the first quarter of 1985.

Fresh whole Atlantic groundfish--Although only limited data are available in this investigation, 19/ several indices have shown a significant decline in the condition of the domestic industry. For example, U.S. commercial landings 20/ of the groundfish covered by this investigation declined irregularly from 369 million pounds in 1982 to 337 million pounds in 1984, or

17/ "Material injury" is defined by statute as "harm which is not inconsequential, immaterial, or unimportant." 19 U.S.C. § 1677(7).

18/ 19 U.S.C. § 1677(7)(C)(iii).

19/ In the event that there is a final investigation, we will expect a higher response rate from the harvesting sector.

20/ Commercial landings are the equivalent of U.S. production. Report of the Commission (Report) at A-18, n.1.

by 8 percent. Landings then fell to 66 million pounds in January-March 1985 as compared with 77 million pounds during the corresponding period in 1984. 21/

The total number of fishing vessels landing groundfish in New England increased slightly during the period of investigation. The number of otter trawlers increased as the longliners and vessels using gill nets decreased. Employment also increased minimally as a greater proportion of large vessels were put into service. 22/ However, captains' and crew shares (wages) fell 8 percent from \$2.8 million, or 38.5 percent of gross revenues, in 1982, to \$2.6 million, or 36.2 percent of gross revenues, in 1984. 23/

The financial experience of the reporting harvesters reflected significant declines in profitability. Aggregate gross revenues declined by 2 percent from \$7.3 million in 1982 to \$7.1 million in 1984. Net losses before taxes increased from \$373,434, or 5.1 percent of gross revenues, in 1982, to \$398,262, or 5.5 percent of gross revenues, in 1983, and then grew to \$563,545, or 7.9 percent of gross revenues, in 1984. 24/

21/ Id. at A-18, A-20, Table 6. Regarding capacity, assessment of the practical availability of groundfish to Northeastern U.S. fishermen is carried out annually by the Northeast Fisheries Center of the National Marine Fisheries Service. In recent years, some of the groundfish resources available to Northeastern U.S. harvesters have been suffering from low population levels, notably haddock and yellowtail flounder. Other species of flatfish are in varying conditions. The other subject groundfish are in relatively good shape. Id. at A-22-A-28. We note that it is extremely difficult to assess the availability of stocks. Nonetheless, declining stocks is one possible reason for the decrease in U.S. landings. We will further investigate this issue in the event there is a final investigation.

22/ Id. at A-19-A-21.

23/ Id. Expenses of trips, which include such items as fuel, ice, and groceries, remained relatively constant. Id. at A-21.

24/ Id. at A-21, Table 7.

We, therefore, find that there is a reasonable indication that the national domestic industry producing domestic fresh whole Atlantic groundfish is materially injured. 25/ 26/

Fresh Atlantic groundfish fillets--The condition of the harvesting portion of this industry is discussed above. The Commission sent questionnaires to 40 processors who are estimated to account for 70 percent of U.S. production of the products covered by this investigation. 27/ 28/ 29/

25/ Chairwoman Stern does not believe it necessary or desirable to make a determination on the question of material injury separate from the consideration of causality. She joins her colleagues by concluding that the domestic industry is experiencing economic problems.

26/ Commissioner Eckes believes that the Commission is to make a finding regarding the question of material injury in each investigation. The Court of International Trade recently held that:

The Commission must make an affirmative finding only when it finds both (1) present material injury (or threat to or retardation of the establishment of an industry) and (2) that the material injury is 'by reason of' the subject imports. Relief may not be granted when the domestic industry is suffering material injury but not by reason of unfairly traded imports. Nor may relief be granted when there is no material injury, regardless of the presence of dumped or subsidized imports of the product under investigation. In the latter circumstance, the presence of dumped or subsidized imports is irrelevant, because only one of the two necessary criteria has been met, and any analysis of causation of injury would thus be superfluous.

American Spring Wire Corp. v. United States, 590 F. Supp. 1273, 1276 (Ct. Int'l Trade 1984) (emphasis supplied), aff'd sub nom., *Armco, Inc. v. United States*, 760 F.2d 749 (C.A.F.C. 1985).

27/ Report at A-28.

28/ According to unpublished statistics of the National Marine Fisheries Service, U.S. production of fresh groundfish fillets rose from 92 million pounds valued at \$172 million in 1982 to 98 million pounds valued at \$193 million in 1984. Id. at A-28-A-29, Table 9.

29/ Because of the perishable nature of fresh fish, there are no inventories to speak of.

Only two relatively small processors accounting for approximately 5 to 10 percent of the industry reported their shipments of fresh fillets. 30/ 31/ These same two processors were the only ones who provided usable income-and-loss data on their overall operations and on their operations processing fresh and chilled whole groundfish fillets. 32/ In the event that there is a final investigation, we expect a much higher response rate from the processing sector.

Due to the lack of data, the Commission was unable to derive a conclusion as to a reasonable indication of material injury to the processing portion of the domestic industry. Those processors who responded, however, were operating at a loss, and they appear vulnerable to injury from unfairly traded imports.

Material injury by reason of the allegedly subsidized imports from Canada--
fresh whole Atlantic groundfish

In making a determination of material injury by reason of allegedly unfair imports, section 771(7)(B) of the Tariff Act of 1930 directs the Commission to consider, among other factors, the volume of imports of the merchandise under investigation, the effect of such imports on domestic prices, and the impact of such imports on the relevant domestic industry. 33/

30/ Report at A-28.

31/ Yearly employment in Northeastern U.S. fresh groundfish processing plants in 1984 was 3,093 persons, more than half of whom were located in Massachusetts. Employment in Massachusetts rose from 1,568 in January to 1,813 in July before declining to 1,564 in August. Employment then steadily declined to 1,234 in December. Employment in fresh groundfish processing exhibited the seasonal trends expected from reliance on a seasonal supply of a perishable raw material. Id.

32/ Id. at A-29.

33/ 19 U.S.C. § 1677(7)(B).

Our consideration of the factors and conditions of trade in the fresh whole Atlantic groundfish industry leads us to the determination that there is a reasonable indication that imports of fresh whole Atlantic groundfish from Canada have caused material injury to the domestic industry.

Almost all U.S. imports of fresh whole groundfish originate from Canada. U.S. imports of Canadian fresh whole groundfish increased steadily from 36 million pounds in 1982 to 76 million pounds in 1984, or by 111 percent. Imports then rose from 16 million pounds in January-March 1984 to 20 million pounds in January-March 1985, or by 23 percent. 34/

Market penetration by imports of Canadian fresh whole groundfish increased steadily from 8 percent of apparent consumption in 1982 to 18 percent in 1984. Canadian fresh whole groundfish imports accounted for 23 percent of apparent consumption in January-March 1985, as compared with 18 percent during the corresponding period in 1984. 35/

Pricing data in this preliminary investigation were very sparse. However, both domestic and import sources reported to the Commission that Canadian groundfish is priced lower than U.S. groundfish. In a final investigation, we will need specific transaction prices to determine the actual price effect of Canadian imports. However, information currently before us provides a reasonable indication of a link between the allegedly unfair imports and material injury to the domestic harvesting industry. 36/

34/ Report at A-30-A-31, Table 12.

35/ Id. at A-33, Table 14.

36/ We expect that data on actual transaction prices will be forthcoming in the event that there is a final investigation, particularly since the majority of those who will provide these data are petitioners.

Threat of material injury by reason of allegedly subsidized imports from Canada--fresh groundfish fillets

Section 612 of the Tariff and Trade Act of 1984 (the 1984 Act) adds a new subparagraph 771(7)(F) which directs the Commission to consider a number of economic factors in assessing threat of material injury. 37/ Such factors include: (1) the nature of the subsidy; (2) the ability of the foreign producers to increase the level of exports to the United States and the likelihood they will do so; (3) any rapid increase in penetration of the U.S. market by the imports; (4) the probability that imports of the merchandise will enter the U.S. at prices that will have a depressing or suppressing effect on domestic prices of the merchandise; (5) any substantial increases in inventories of imported merchandise in the United States; (6) underutilized capacity for producing the merchandise in the exporting country; (7) any other demonstrable adverse trends that indicate the probability that importation of the merchandise will be the cause of actual injury; and (8) the potential for product-shifting. In order to conclude that allegedly subsidized imports constitute a threat of material injury to the domestic industry, the Commission must find that the threat is real and imminent, and not based upon a mere possibility that injury might occur at some remote future date. 38/

Petitioner has alleged that the subsidies received by the Canadian industry amount to 10 to 20 percent ad valorem and include vessel construction subsidies, infrastructure subsidies, equipment and operating cost subsidies, unemployment benefits, and others. It is unclear at this time whether the alleged subsidies do, in fact, favor exports.

37/ 19 U.S.C. § 1677(7)(F).

38/ S. Rep. No. 249, 96th Cong., 1st Sess. 89 (1979).

Regarding the likelihood of increased exports to the United States, Canadian fresh groundfish fillet production increased from 8.6 million metric tons to 10.7 million metric tons, or by 24 percent, from 1982 to 1984. 39/ Further, in a recent publication, the Canadian government recommended that processors concentrate on processing more high quality fresh fish. 40/

The volume of imports of fillets from Canada rose from 16.4 million pounds in 1982 to 21.5 million pounds in 1984, or by 42 percent, 41/ but declined somewhat in the first quarter of 1985 compared with 1984. Further, imports of fresh groundfish fillets from Canada increased from 14 percent of apparent consumption in 1982 to 17 percent of apparent consumption in 1984. 42/

Regarding inventories, the fifth factor, we note that there are virtually no inventories because of the extreme perishability of fresh fish products.

Although exact figures on Canadian "capacity" to produce fresh groundfish products are not available, apparently substantial excess capacity in groundfish processing has existed in Atlantic Canada for a number of years. 43/ Available assessments focus on the capacity to produce fresh and frozen groundfish. Nonetheless, underutilized capacity to produce fresh groundfish alone apparently also exists, inasmuch as both fresh and frozen fish products are produced by the same establishments. 44/

Regarding "other demonstrable adverse trends," the seventh factor, there is a new emerging Canadian distribution system that will permit processors to

39/ Brief of Fisheries Council of Canada at 97, Table 15.

40/ Report of the Task Force on Atlantic Fisheries, Department of Fisheries and Oceans, Navigating Troubled Waters: A New Policy for the Atlantic Fisheries (Ottawa) (December 1982) (Kirby Report); Post-Conference Brief of Petitioner at 70-71.

41/ Report at A-32, Table 13.

42/ Id. at A-34, Table 15.

43/ See Kirby Report, supra n.40.

44/ Tr. at 207-08.

by-pass U.S. processors and deal directly with final users such as restaurants and supermarkets. 45/ Apparently air shipment of fresh groundfish from many points in Atlantic Canada to all areas of the United States is possible even from Newfoundland, the most remote Atlantic Province. 46/

Regarding the probability of product shifting, we note that fresh groundfish production in Canada traditionally has constituted a small proportion of total fresh, frozen, and salted groundfish production. 47/ Nonetheless, almost every Canadian processor produces fresh, frozen, and salted fish products, using the same basic facilities for all products. 48/ There exists the ability of the Canadian processors to shift production from frozen and salted to fresh products, thereby significantly increasing fresh fish production and exports to the United States. 49/

Additionally, we believe it extremely likely that if a duty is levied solely on fresh whole fish, fillet operations will increase. Finally, we note that because of the antidumping duty on dried salted codfish, it is possible that some fish which would have gone into the salted codfish market will shift into the fresh fish market.

We, therefore, determine that there is a reasonable indication that the national domestic industry producing fresh groundfish fillets is threatened with material injury. 50/

45/ Post-Conference Brief of Petitioner at 73-74.

46/ Id. at 74.

47/ Tr. at 181.

48/ Id. at 207-08.

49/ Id. at 181; Post-Conference Brief of Petitioner at 73.

50/ Chairwoman Stern stresses that her determination of a reasonable indication of threat of material injury is not based on any one factor, but rather on her consideration of all the factors discussed above.

INFORMATION OBTAINED IN THE INVESTIGATION

Introduction

On August 5, 1985, the U.S. International Trade Commission and the U.S. Department of Commerce (Commerce) received a petition from counsel on behalf of the North Atlantic Fisheries Task Force, an association representing fishermen, fishermen's cooperatives, and fish processors located in the Northeastern United States, alleging that subsidies are being paid on imports from Canada of fresh cod, haddock, pollock, hake, and flatfish, in whole and fillet form, as provided for in items 110.15, 110.35, 110.50, 110.55, and 110.70 of the Tariff Schedules of the United States (TSUS), and that a regional industry in the United States 1/ is materially injured or threatened with material injury by reason of such imports. The Commission therefore instituted a preliminary countervailing duty investigation under section 703(a) of the Tariff Act of 1930 (19 U.S.C. 1671b(a)) to determine whether there is a reasonable indication that an industry in the United States is materially injured or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of such imports. The statute directs that the Commission make its determination within 45 days of its receipt of the petition, or in this case, by September 19, 1985.

Notice of the institution of the Commission's investigation and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the Federal Register on August 14, 1985 (50 F.R. 32775). 2/ The public conference was held in Washington, DC, on August 28, 1985. 3/ The briefing and vote in this investigation was held on September 11, 1985.

Previous Commission Investigations

The Commission has conducted three countervailing duty investigations and one escape clause investigation concerning various types and forms of groundfish since 1978. In all four instances the Commission made unanimous negative determinations. In addition, the Commission recently conducted a section 332 investigation regarding the conditions of competition affecting the northeastern United States groundfish and scallop industries. 4/

1/ The alleged regional industry consists of firms located in Maine, New Hampshire, Vermont, Massachusetts, Connecticut, Rhode Island, New York, New Jersey, Pennsylvania, Delaware, Maryland, the District of Columbia, and Virginia. This region is hereafter referred to as the Northeastern United States in this report.

2/ A copy of the Commission's notice of institution is presented in app. A. A copy of Commerce's notice of institution is also presented in app. A.

3/ A list of witnesses appearing at the conference is presented in app. B.

4/ Conditions of Competition Affecting the Northeastern U.S. Groundfish and Scallop Industries in Selected Markets: Report to the President on Investigation No. 332-173 . . ., USITC Publication 1622, December 1984.

On June 10, 1977, the Fishermen's Marketing Association of Washington, Inc., Seattle, WA, filed a petition with the Department of the Treasury (Treasury) concerning imports from Canada of fresh, chilled, or frozen whole cod; salted, pickled, smoked, or kippered cod, cusk, haddock, hake, and pollock; cod and flatfish (except turbot) frozen in blocks of 10 pounds or more each; and fresh, chilled, or frozen flatfish fillets (except halibut and turbot). On June 27, 1978, the Commission received advice from Treasury that a bounty or grant was being paid by the Government of Canada on certain fish and fish products exported to the United States. The Commission then instituted investigation No. 303-TA-3 to determine whether an industry in the United States was being or was likely to be injured, or was prevented from being established, by reason of such imports. On September 27, 1978, the Commission determined by a vote of 5 to 0 that an industry in the United States was not being injured, was not likely to be injured, and was not prevented from being established, by reason of the subject imports. 1/

On January 9, 1979, the Commission received advice from Treasury that a bounty or grant was being paid with respect to imports from Canada of duty-free whole cusk, haddock, hake, and pollock, whether fresh, chilled, or frozen; fish blocks made of Atlantic ocean perch, haddock, whiting, and other fish except cod, flatfish, or pollock; live lobsters; and scallops. A petition had been filed with Treasury on December 30, 1977, by the National Federation of Fishermen and the Point Judith Fishermen's Cooperative Association of Narragansett, RI. The Commission's investigation, No. 303-TA-9, was instituted on January 18, 1979. On April 9, 1979, the Commission 2/ determined that an industry in the United States was not being injured, was not likely to be injured, and was not prevented from being established, by reason of these imports from Canada. 3/

On August 20, 1979, a petition was filed by the Fishermen's Marketing Association of Washington, Inc., Seattle, WA, and the Coast Druggers Association, Westport, WA, alleging that increasing imports of groundfish and groundfish products were causing serious injury to the U.S. fishing industry. The Commission instituted investigation No. TA-201-41 on September 5, 1979, to determine whether fresh, chilled, or frozen cod, cusk, haddock, hake, pollock, whiting, wolffish, Atlantic ocean perch, Pacific rockfish (including Pacific ocean perch), flounder, turbot, and all other flatfish except halibut were being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing articles like or directly competitive with the imported articles. On January 29, 1980, the Commission 4/ determined that the above-mentioned groundfish were not being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or threat of serious injury, to the domestic industry producing the like or directly competitive products. 5/

1/ Certain Fish From Canada, Investigation No. 303-TA-3, USITC Publication 919, September 1978.

2/ Commissioners Parker, Alberger, Moore, Bedell, and Stern.

3/ Certain Fish and Certain Shellfish From Canada, Investigation No. 303-TA-9, USITC Publication 966, April 1979.

4/ Commissioners Alberger, Moore, and Stern.

5/ Certain Fish, Investigation No. TA-201-41, USITC Publication 1028, January 1980.

On February 5, 1980, the Commission received information from Commerce concerning current subsidy levels on imports from Canada of fresh, chilled, or frozen, but not otherwise prepared or preserved, fish that had been the subject of affirmative subsidy determinations in three investigations conducted by Treasury prior to 1978, but for which countervailing duties had been waived. Accordingly, pursuant to section 104(a)(2) of the Trade Agreements Act of 1979, the Commission conducted investigation No. 701-TA-40 (Final) and determined that an industry in the United States was not injured or threatened with injury by reason of the subject imports. 1/

Nature and Extent of Alleged Subsidies

The petition alleges that both the harvesting and processing sectors of the Atlantic groundfish industry in Canada receive subsidies from the Federal and Provincial Governments of Canada. According to the petition, subsidies to the harvesting sector occur in several broad categories. These are (1) vessel construction subsidies, (2) infrastructure subsidies, (3) equipment and operating costs subsidies, (4) seasonal unemployment benefits for fisherman, (5) preferential income tax treatment, and (6) enterprise allocations. Subsidies to the processing sector allegedly take the following forms: (1) capital grants and preferential loans, (2) preferential tax treatment, (3) government investment in the processing sector, and (4) marketing and export assistance. The petition estimates that the subsidies listed above benefit the production and export of fresh fish products to the United States by 10 to 20 percent ad valorem. Details of the programs and the estimated benefits conferred thereunder are discussed in detail in the petition.

The Products

Description and uses

The products covered by this investigation are fresh and chilled Atlantic cod, haddock, pollock, hake, and flatfish (flounders and sole), in whole and fillet forms. These fish are among those types commonly known as "groundfish," a category that includes many types of fish that are generally found and caught on or near the sea bottom in cold or temperate waters.

Atlantic cod (Gadus morhua), haddock (Melanogrammus aegle finus), Atlantic pollock (Pollachius virens), 2/ red hake (Urophycis chuss), and white hake (U. tenuis) are all members of the codfish (Gadidae) family. Flatfish, including winter flounder (Pseudopleuronectes americanus), yellowtail flounder (Limanda ferruginea), summer flounder (Paralichthys dentatus), witch flounder (also known as gray sole) (Glyptocephalus cynoglossus), and others, 3/ are members of the Bothidae (lefteye) and Pleuronectidae (righteye) families of flatfishes. Haddock and the mentioned species of cod, pollock, hake, and

1/ Fish, Fresh, Chilled, or Frozen, Whether or Not Whole, but Not Otherwise Prepared or Preserved, from Canada, Investigation No. 701-TA-40 (Final), USITC Publication 1066, May 1980.

2/ A variation of this name, pollack, usually refers to another species of pollock, P. pollachius, found in the Northeast Atlantic and not harvested by the U.S. industry covered in this investigation.

3/ Two less popular types of flatfish included in this investigation are sea dab and sand dab.

flatfishes are found primarily in the Northwest Atlantic from Newfoundland to the Mid-Atlantic States, although various species of flatfish are found in limited quantities as far south as the Gulf of Mexico. Those species of cod, pollock, hake, and flatfishes that are found in the North Pacific are not included in the scope of this investigation.

A freshly caught fish is usually chilled (with ice or refrigeration but not to the freezing point), frozen, or preserved in some manner if it is not going to be landed within a few hours of being caught. Since most of the subject groundfish harvested by United States and Canadian fishermen are chilled until landed at shoreside processing facilities, the U.S. seafood trade distinguishes only between fresh and frozen fish. The word fresh in this report hereafter refers to both chilled and unchilled fish, as distinct from frozen.

With some exceptions, the types of fish covered by this investigation are bled and eviscerated (gutted) soon after being caught. This process enables the fish to retain its quality for a longer period of time. Exceptions include flatfish, which have small internal areas and thus spoil less quickly than the other types. Additionally, some boats that fish close to shore and land fish daily may not perform this procedure. Fish that are uncut, or that are processed only by bleeding or by the removal of heads, viscera, and/or fins, are commonly known as whole fish.

Within species, multiple identifiable products can exist, depending on the size of the fish. For example, whole cod is sold at the ex-vessel level in major New England ports in four size categories: scrod (under 2.5 pounds), 1/ market (2.5-10 pounds), large (10-25 pounds), and whale (over 25 pounds).

The second product form covered by this investigation is fillets. Fillets are a processed form of fish commonly sold to retail customers. A fillet is produced by heading the whole fish and then cutting away the flesh on either side of the spine. Fillets may be either skinned or not skinned. A small quantity of cod is cut perpendicular to the backbone into steaks, with the bone left in. These steaks are included in the term fillets throughout this report.

Harvesting methods

Groundfish are harvested by U.S. fishermen over a considerable expanse of sea bottom, ranging from coastal areas to rich fishing grounds over 100 miles offshore. The most common vessels are stern otter trawlers. These vessels harvest fish by trailing a long, bag-shaped net called an otter trawl from the stern and are considered the most efficient for capturing groundfish. Additionally, some old side trawlers still operate, although they are considered to be less efficient.

A third type of vessel in operation is the longliner. These vessels trail a long line with baited hooks from the stern. Since the catch is not

1/ "Scrod" also may refer to similar-sized haddock, pollock, and cusk, although such usage is rarer than for cod.

crushed in the net, the quality of "hooker" fish is considered to be the best possible. However, problems with longliners, such as the high cost of bait and the fact that fish captured in this manner do not necessarily bring a higher market price, limit the popularity of these vessels.

Finally, a common gear type used in "inshore" ^{1/} harvesting is the gill net. This consists of a long, rectangular net a few feet high and frequently several hundred feet in length that is suspended in water by a system of buoys and anchors. Fish swimming into the net are caught by their gills and trapped; the fisherman travels the length of the net daily and removes the catch.

The use of electronics in groundfish harvesting operations is widespread. For navigation, radar and loran-C are both used widely and employed on all but very small, inshore vessels. Citizen band radios and radio telephones are common as well. "Fish-finders" (sonar systems) are only slightly less common and are considered valuable if affordable; in addition to locating schools of fish, sonar helps locate potential obstructions to gear.

Processing methods

Although there have been a few attempts in recent years to operate fish-processing or freezing vessels, virtually all groundfish processing in the Northeastern United States is carried out on shore. This is because the typical offshore fishing vessel makes trips of no more than 1 week (2 weeks at the most) before landing, which is usually a short enough period of time to avoid significant deterioration in fish quality.

The substantial majority of fresh whole groundfish in the Northeastern United States market is destined for fillet production. Traditionally, fillets have been cut by hand, although many processors have now added automated fillet machines. Fillets are generally packed according to the market: fillets destined for retailers are usually individually tray-packed, while those shipped to wholesalers, restaurants, or institutions are generally packed in plastic, paper, or metal containers in 5- to 20-pound units. There is some production of domestic frozen fillets, usually during periods of heavy landings when ex-vessel prices fall low enough to justify the added processing costs (and reduced wholesale prices for frozen fillets) and to fill U.S. Department of Defense orders for frozen fish, which are required to be of domestic origin. The latter market is of very limited volume.

New fish processing and packaging techniques have been developed and implemented on a limited basis in recent years. Experiments have been conducted with irradiation, a process that kills bacteria without danger of radiation, but this process has not yet been approved by the U.S. Government for commercial fish processing. Packing in styrofoam "tray-packs" (a common retail package) with carbon dioxide helps to lengthen shelf life, as does the practice of freezing and rethawing prior to sale. These and other developments are of increasing interest to fish marketers in light of consumer concern about product quality, as well as the push to expand markets in other regions of the country, which requires longer transportation periods.

^{1/} "Inshore" fisherman harvest fish in coastal areas and return to port at night. "Offshore" fisherman stay at sea for at least several days each trip.

U.S. tariff treatment

U.S. imports of the fresh or chilled whole groundfish covered by this investigation are classified under items 110.15 or 110.35 of the TSUS. 1/ Imports of cod, haddock, hake, and pollock from Canada and all other countries receiving the column 1 rate of duty 2/ are free of duty, while imports receiving the column 2 rate of duty are dutiable at 1 cent per pound. Imports of flatfish from Canada and other countries receiving the column 1 rate of duty are dutiable at 0.5 cents per pound, while those from countries receiving the column 2 rate of duty are dutiable at 1 cent per pound.

Imports of fresh, chilled, or frozen cod, cusk, haddock, hake, pollock, and Atlantic ocean perch fillets have been subject to a tariff-rate quota since January 1, 1939. Annual within-quota imports, those to receive the lower duty rate, are limited to 15 million pounds or 15 percent of the average annual U.S. consumption of groundfish fillets during the 3 preceding calendar years, whichever is greater. Of the total quantity of within-quota groundfish fillets entitled to enter in any calendar year, not more than one-fourth can be entered during the first 3 months, not more than one-half during the first 6 months, and not more than three-fourths during the first 9 months of that year.

TSUS item 110.50 covers the within-quota imports of groundfish fillets 3/ and item 110.55 covers the over-quota imports. As a general practice, however, the U.S. Customs Service (Customs) classifies both the within-quota imports and over-quota imports as over quota at the time the product enters. Customs later determines which imports qualify under TSUS item 110.50--on the basis of the time of entry--and then rebates to the importer the overpayments of duty. The following tabulation shows the annual quotas for groundfish fillet imports during 1982-85 (as provided by Customs):

<u>Year</u>	<u>Quota</u> <u>(1,000 pounds)</u>
1982-----	48,098
1983-----	49,489
1984-----	56,098
1985-----	56,822

Column 1 imports of cod, haddock, hake, and pollock entered under item 110.50 are dutiable at 1.875 cents per pound, while the duty on imports receiving the column 2 rate is 2.5 cents per pound. Over-quota imports of these species under TSUS item 110.55 are dutiable at 2.04 cents per pound under column 1 and 2.5 cents per pound under column 2. The column 1 duty rate for TSUS item 110.55 is being reduced, in stages, to 1.875 cents per pound (the current least-developed-developing-country rate) by January 1, 1987, thus ending the column 1 duty rate differential. Imports of fresh flatfish

1/ A copy of the pertinent parts of the Tariff Schedules of the United States Annotated (TSUSA) is presented in app. C.

2/ The rates of duty in col. 1 are most-favored-nation rates applicable to imported products from all countries except those Communist countries and areas enumerated in general headnote 3(d) of the TSUS.

3/ Not including flatfish.

fillets, classified under item 110.70, are duty free under column 1 and dutiable at 2.5 cents per pound under column 2.

U.S. imports of fresh or chilled groundfish are subject to inspection by the Food and Drug Administration (FDA) to ensure wholesomeness and compliance with the standards of identity and labeling requirements that apply to domestic groundfish. Fish is not subject to mandatory FDA inspection during processing; however, Commerce does carry out a voluntary inspection program, at industry expense, of processed fish production.

The Magnuson Fishery Conservation and Management Act of 1976 (MFCMA) (Public Law 94-265) established a 200-mile fishery conservation zone (FCZ) within which the United States exercises exclusive management of fishery resources. The MFCMA is administered by the National Marine Fisheries Service (NMFS) of Commerce. Under the MFCMA, U.S. imports of any fishery product must be embargoed if from a country with which the United States cannot conclude an international fishery agreement allowing U.S. fishing vessels equitable access to fisheries over which that country asserts exclusive fishery management authority, as recognized by the United States. No embargoes on U.S. imports of groundfish have been imposed under the MFCMA.

U.S. imports of whole cod, haddock, and yellowtail flounder are subject to minimum size restrictions of 17, 17, and 11 inches, respectively. These restrictions are consistent with U.S. fishery management restrictions that apply to domestic fishermen.

U.S. Market and Channels of Distribution

Apparent U.S. consumption

Fresh whole groundfish.--Apparent U.S. consumption of the fresh whole groundfish covered by this investigation increased irregularly from 406 million pounds in 1982 to 415 million pounds in 1984, or by 2.2 percent (table 1). Consumption then declined from 94 million pounds in January-March 1984 to 87 million pounds in January-March 1985, or by 7 percent.

Table 1.--Certain fresh whole groundfish: U.S. imports for consumption, commercial landings, and apparent consumption, 1982-84, January-March 1984, and January-March 1985

Period	U.S. commercial landings	U.S. imports	Apparent consumption
	Million pounds		
1982-----	369.1	36.6	405.7
1983-----	381.9	47.3	429.2
1984-----	336.9	77.8	414.7
January-March--			
1984-----	77.3	16.8	94.1
1985-----	66.4	20.7	87.1

Source: Compiled from official statistics of the U.S. Department of Commerce.

Fresh groundfish fillets.--Apparent U.S. consumption of the fresh groundfish fillets covered by this investigation increased steadily from 109 million pounds in 1982 to 122 million pounds in 1984, or by 12 percent (table 2). The increase in consumption of fillets is due in part to the increased demand for fish by health-conscious consumers. According to Commerce, per capita consumption of fresh and frozen fish fillets and steaks rose from 2.68 pounds in 1982 to 3.13 pounds in 1984.

Table 2.--Certain fresh groundfish fillets: U.S. production, imports for consumption, and apparent consumption, 1982-84

Period	U.S. production	U.S. imports	Apparent U.S. consumption
-----Million pounds-----			
1982-----	92.1	17.2	109.3
1983-----	95.8	19.7	115.6
1984-----	98.3	23.9	122.2

Source: Compiled from official statistics of the U.S. Department of Commerce.

Channels of distribution

Typically, fresh whole groundfish moves from the fishing boat to a wholesale fish dealer or primary processor--that is, a firm that cuts fillets from whole fish. The processor then either sells to wholesalers or through brokers to the next level--restaurants, retail food chains, fresh fish markets, and schools or other institutions.

Imported fresh groundfish enters the United States in two forms, whole and filleted. Whole fish from Canada is shipped by truck from the Atlantic provinces of Nova Scotia (by ferry to Maine), New Brunswick, and Quebec to the major processing areas of Boston, New Bedford, Gloucester, and New York, as well as to other cities in the Northeastern United States. Quantities are also airshipped directly to other U.S. cities. From these processing points the whole fish, once filleted, is distributed through the same market channels as domestic fresh fish. Imported groundfish fillets are more commonly airshipped directly to other U.S. cities, but a substantial portion are also trucked into New England and New York for packing and marketing by U.S. distributors. Some fresh fish brokers in New England deal exclusively in Canadian fish, while others are simply subsidiaries of Canadian processors. Other dealers rely heavily on imported fish to supplement their domestic supplies and provide a sufficient array of species and products to satisfy their customers.

Small amounts of fresh whole groundfish and fillets are also imported from European sources. For example, fresh whole flatfish and flatfish fillets are imported from the Netherlands and fresh haddock, hake, and pollock fillets are imported from Iceland. Other sources provide insignificant amounts of fresh groundfish. As air shipment of fresh fish becomes more technologically developed, industry sources expect an increasing supply of fresh groundfish from these other groundfish-producing nations.

In general, fresh groundfish products in U.S. markets lose their national identity very early in the distribution chain, and rarely is the country of origin discernible at the retail or other final-consumer level of sale. Much imported fresh groundfish is first distributed by brokers who, without taking ownership of the product, find buyers for the product for a set fee. Other brokers, known as "commission" men, find buyers for a percentage of the sale price. Although Canadian groundfish is generally acknowledged to be of lesser quality than U.S. fish, 1/ owing in part to the extra day or two required to ship the fish to the U.S. market, U.S. processors often unwittingly buy Canadian fish from New England brokers. Indeed, according to one major New England broker interviewed by Commission staff, it is frequently the case that processor A will reject broker B's fish because it is Canadian, then go to broker C for fish, who will then buy B's Canadian fish and sell it (as U.S. fish) to A for a price above B's original offer to A. 2/

U.S. producers

Harvesters.--The fishing vessels harvesting the groundfish covered in this investigation are based in Atlantic ports from Maine to Virginia, with a small number of vessels from North Carolina and other South Atlantic States occasionally landing the subject groundfish species. The bulk of the U.S. landings of the subject groundfish species are made in the major Northeastern United States ports of Gloucester, MA; New Bedford, MA; Boston, MA; Point Judith, RI; Rockland, ME; Portland, ME; Cape May, NJ; and Hampton Roads, VA. The proportion of the total 1984 harvest of the subject groundfish species accounted for by each State in this region, as reported by NMFS, is shown in the following tabulation:

<u>State</u>	<u>Landings</u> (<u>1,000 pounds</u>)	<u>Share of total</u> <u>1/</u> (<u>percent</u>)
Massachusetts-----	191,961	60.2
Maine-----	56,131	17.6
Rhode Island-----	33,346	10.5
Virginia-----	9,816	3.1
New Hampshire-----	8,695	2.7
New York-----	7,864	2.5
New Jersey-----	7,752	2.4
Connecticut-----	2,667	0.8
Maryland-----	809	0.2
Delaware-----	<u>23</u>	<u>2/</u>
Total-----	319,064	100.0

1/ Items do not add to total due to rounding.

2/ Less than 0.05 percent.

1/ Staff interviews with processors located in Boston and Gloucester.

2/ Discussion with xxx. See trip notes of Roger Corey.

The five coastal New England States accounted for 292 million pounds, or 93 percent of the total weight of groundfish landed in the Northeastern United States, in 1984.

Northeastern United States groundfish harvesters concentrate their fishing effort for most of the subject species in the waters off the New England coast, particularly the Gulf of Maine. ^{1/} This region includes Georges Bank, often said to contain the most productive and valuable fishing grounds in the world. These grounds have been fished by coastal residents since before the Revolutionary War and have always been a principal source of the U.S. domestic groundfish supply.

Processors.--Although landed groundfish (particularly cod, haddock, hake, and pollock) are "processed" by fishermen (who eviscerate the fish before bringing them to port), for practical purposes, groundfish "processing" in the Northeastern United States includes only those activities carried out by onshore operations: washing, filleting, freezing, breasting, packaging, and so forth.

Many, if not most, groundfish processors in the Northeastern United States produce both fresh and frozen products, and some also produce breaded and canned products. However, this investigation covers only the production of fresh groundfish fillets (and steaks). The number of firms processing fresh groundfish (all species) in the Northeastern United States in 1984 is shown in the following tabulation:

<u>State</u>	<u>Number of plants</u>	<u>Fresh fillet production</u>	
		<u>Quantity</u> (1,000 lbs.)	<u>Value</u> (1,000 dollars)
Massachusetts-----	57	89,509	\$161,231
Maine-----	27	13,202	22,710
New York-----	17	4,444	14,353
Rhode Island-----	20	4,947	10,143
Virginia-----	4	1,706	2,800
Other ^{1/} -----	<u>5</u>	<u>5,065</u>	<u>8,739</u>
Total-----	130	118,873	219,977

^{1/} Includes Connecticut, New Hampshire, and New Jersey.

Source: Compiled from unpublished statistics of the National Marine Fisheries Service.

Of the 130 firms ^{2/} engaged in fresh groundfish ^{3/} processing in the Northeastern United States region, 84, or more than half, were located in

^{1/} The exception to this is flatfish, which are also harvested in waters south of New England and east of the mid-Atlantic States.

^{2/} According to Bob Gill, Executive Director of the Boston Fisheries Association, 13 firms have gone out of business or filed for bankruptcy since 1984.

^{3/} Includes all species.

Massachusetts and Maine. Data on fresh groundfish processing plants outside the Northeastern United States are not available, but such activity is believed to be quite limited compared with Northeastern United States production, due in part to the high cost of transporting whole fish relative to fish fillets.

The degree of concentration in fresh groundfish processing is indicated by concentration ratios showing the proportion of total industry production held by the largest firms. Concentration in the Northeast U.S. fresh groundfish processing industry appears to be low to moderate when evaluated on an industry-wide basis, with the largest producer holding somewhat less than 10 percent of total industry production in 1984. The top 4 firms held 26 percent of total production, while the top 8 firms held 40 percent. The 4 largest firms each had an average of 6.5 percent of total production; each of the next 8 firms had an average of 2.9 percent; and each of the next 8 (13th through 20th largest firms) had an average of 1.5 percent of industry production. On a port-by-port basis--which is a more relevant basis for assessing the market faced by many fishing vessels, particularly small ones--concentration among buyers is greater, and many smaller ports have only a handful of processors and dealers. A 1982 study of the fresh groundfish processing industry in the Northeastern United States market in 1979 contained estimated concentration ratios for the major New England ports. ^{1/} The estimates were based on processed product shares (including products processed from imported whole fish) and not on shares of purchases of domestic whole fish, which, as the authors pointed out, tends to bias the estimates of market power in bargaining with domestic fishermen. Nevertheless, significant concentration was found in the ports of Boston (4-firm concentration ratio of 57 percent, 8-firm ratio of 77 percent), Gloucester (4-firm ratio of 87 percent, 8-firm ratio of 100 percent), and New Bedford (and Cape Cod) (4-firm ratio of 53 percent, 8-firm ratio of 79 percent). In smaller ports, especially those with no processors and only dealers who will truck the fish to processing centers, concentration in whole groundfish buying may be even greater.

There is little vertical integration in the Northeastern United States groundfish business. However, a few processors own or have interests in fishing craft, and some processing firms operate retail outlets.

U.S. importers

Most fresh or chilled groundfish imported into the United States from Canada is either imported by New England brokers who find buyers for the fish without actually taking title, or directly imported by processors, wholesalers, restaurant and supermarket chains, and other marketers of fish. There are no official statistics on the quantity of fresh groundfish imported by any of these groups of buyers.

^{1/} Georgianna, Daniel, and Joel Dirlam, Industrial Structure and Cost of Fresh Atlantic Groundfish Processing, National Marine Fisheries Service, November 1982.

The substantial majority of fresh groundfish imports enter the United States through Northeast U.S. customs districts (primarily Portland, ME), where fresh groundfish is brought from Canada by ferry.

Canadian producers

Imports of fresh whole or fillet groundfish come primarily from Canada, which supplied 97 percent of total U.S. imports during 1984, or 98 million pounds valued at \$54 million.

The Canadian fresh groundfish industry is concentrated in the Atlantic region, which consists of five Provinces: the three Maritime Provinces of Nova Scotia, New Brunswick, and Prince Edward Island; Quebec; and Newfoundland and Labrador (Newfoundland). In 1982, this region employed some 73,000 persons in fish harvesting and processing, about 2 percent of the region's total employment (8 percent, excluding Quebec). Nova Scotia and New Brunswick account for the majority of fresh groundfish production, since transportation costs prevent the export of a substantial quantity of fresh fish from the northern Provinces.

Fresh and frozen groundfish are major products of the region, accounting for Can\$440 million in 1982, or 31 percent of total Atlantic Canada production of fish and shellfish products. Of primary importance to the industry are frozen products--groundfish fillets and blocks--that account for most of the value of groundfish output. Historically, because of transportation considerations and supply fluctuations, little emphasis has been placed on production of fresh groundfish products, except by small- and medium-scale Nova Scotia processors with the flexibility and proximity to U.S. markets that allow them to adjust to demand and supply fluctuations and some Newfoundland processors who have developed market channels for air shipment of fresh groundfish to Boston, Los Angeles, and other cities. The larger, more capitalized plants focus on frozen fillet and block production, as well as the marketing of much of the output of smaller plants. Throughout the industry, emphasis is placed on export markets--primarily the United States, which has traditionally accounted for most of the consumption of the region's fresh and frozen groundfish production.

The degree of vertical and horizontal integration in fish processing and harvesting is very high. At present, two firms together account for at least 75 percent of frozen groundfish production and own and operate numerous large and small processing plants throughout the region; in addition, these firms own and operate almost all the large, offshore fishing vessels, which account for as much as one-half of the region's total groundfish harvests. One of these firms, National Sea Products, Ltd., of Nova Scotia, is also the single largest supplier of fresh groundfish to the U.S. market. This concentration in fresh and frozen groundfish production is the result of recent merger activities (encouraged by the Government of Canada) in which the five larger vertically integrated processors were, in 1983, merged with several smaller, one-plant firms into the two firms that now dominate the industry.

Harvesters.--There is a very wide range of types of groundfish fishermen in Atlantic Canada. At one end of the spectrum is the inshore fisherman, usually found in isolated ports such as those scattered around Newfoundland, who operates a vessel often no larger than a dory, fishing within sight of his dock, during a season lasting 3-4 months before ice sets in and the fish migrate to deeper waters. At the other extreme is the crewman of a large offshore trawler, a 100- to 300-foot vessel with a crew of 10 to 14 that can fish as far as 400 miles from port for periods of up to 2 weeks, in all but the worst winter weather. The harvesting of groundfish makes up a substantial portion of the activity of these fishermen; the subject species of groundfish accounted for 60 percent of the total fish harvest in Atlantic Canada in 1984.

The number of Atlantic Canada fishermen engaged in groundfish harvesting in 1983, as reported by the Government of Canada, is shown in the following tabulation:

Nova Scotia-----	7,609
Quebec-----	3,761
New Brunswick-----	2,179
Prince Edward Island-----	1,454
Newfoundland-----	<u>1/</u>
Total-----	15,003

1/ Not available

While data for Newfoundland are not available, it is believed that a substantial majority of the 28,074 fishermen registered in Newfoundland in 1983 were engaged in groundfish harvesting, owing to the dominant position such species of fish take in total Newfoundland fish and shellfish landings (84 percent by quantity in 1982).

Total landings of the subject species of groundfish in Atlantic Canada during 1982-85 are shown in table 3. Total landings declined from 1.57 billion pounds in 1982 to 1.48 billion in 1983 and 1.29 billion in 1984, a net decline of 18 percent during 1982-84. This downward trend continued during the first quarter of 1985, with 236 million pounds landed versus 248 million pounds during the first quarter of 1984, a drop of 5 percent. The total value of Canadian landings of the subject groundfish declined steadily from \$210 million in 1982 to \$166 million in 1984, for a drop of 21 percent during the 3-year period. However, through the first quarter of 1985, landed value was up, totaling \$30 million compared with \$23 million in the first quarter of 1984, representing an increase of 30 percent.

Of primary importance to the Atlantic Canada groundfish harvesting industry, in terms of both volume and value, is cod, which accounted for 73 percent of both volume and value of total 1984 landings of the subject groundfish in the region. It is cod that is principally responsible for the decline in groundfish landings experienced in Atlantic Canada during 1982-84, contributing 197 million pounds to the overall 282 million pound decline in the volume of groundfish landings and \$36 million to the overall \$45 million decline in the value of such landings. One important cause of the decline in cod landings was a strike of Newfoundland's large processing plants by

company-owned offshore trawler crews and plant workers during 1984, which severely cut back the landings of cod and other groundfish in Canada's largest fishing Province.

Unlike the Northeastern United States, where the majority of the groundfish harvesting activity is undertaken by a relatively homogeneous group of 30- to 80-foot otter trawlers, Canadian groundfish harvesting is a two-tier activity, with the bulk of the groundfish harvest split between the small inshore vessels and the large offshore trawlers. The former are by far the

Table 3.--Certain groundfish: Canadian landings, by species, 1982-84, January-March 1984, and January-March 1985

Species	1982	1983	1984 <u>1/</u>	January-March-- <u>1/</u>	
				1984	1985
Quantity (1,000 pounds)					
Cod-----	1,140,556	1,122,256	944,010	198,659	181,857
Flatfish-----	206,494	169,675	170,416	26,473	22,994
Haddock-----	102,300	87,695	71,870	15,805	18,662
Pollock-----	85,045	74,601	76,720	6,175	12,112
Hake-----	37,214	28,951	27,337	514	679
Total-----	1,571,609	1,483,178	1,290,353	247,626	236,304
Value (1,000 U.S. dollars)					
Cod-----	156,683	151,168	120,377	15,695	21,807
Flatfish-----	22,210	19,068	18,917	2,762	2,251
Haddock-----	18,724	19,718	17,450	4,238	5,058
Pollock-----	9,240	7,059	6,332	469	932
Hake-----	3,567	2,597	2,471	42	67
Total-----	210,424	199,610	165,547	23,206	30,115
Unit value (cents per pound)					
Cod-----	14	13	13	8	12
Flatfish-----	11	11	11	10	10
Haddock-----	18	22	24	27	27
Pollock-----	11	9	8	8	8
Hake-----	10	9	9	8	10
Average-----	13	13	13	9	13

1/ Preliminary.

Source: Compiled from official statistics of the Canadian Department of Fisheries and Oceans.

greater in absolute numbers, but the latter catch a disproportionate share of the total Canadian harvest of groundfish, as shown in the following tabulation (official 1982 data for Atlantic Canada (excluding Quebec) from the Government of Canada):

<u>Vessel length</u>	<u>Number</u>	<u>Groundfish harvest</u> (1,000 pounds)
Under 65 feet-----	26,960	880,303
65-99 feet-----	138	49,857
Over 99 feet-----	229	748,499

The smaller vessels, those under 65 feet in length, are typically individually owned and operated; the owners sell their catch to dealers and small processing plants, although some also sell to the large, vertically integrated processors. These vessels were 26,960 in number in 1982, approximately 99 percent of the total number of fishing vessels in the Atlantic Canadian fleet in 1982, but accounted for only about half the total fishing output of the fleet (as indicated by their combined share of the Canadian groundfish harvest). The large offshore trawlers, now virtually entirely owned by the two vertically integrated processing firms, National Sea Products and Fishery Products International, were only 229 in number in 1982, yet accounted for 748 million pounds, or 45 percent, of the total Atlantic Canada groundfish harvest. The remaining 50 million pounds, approximately 3 percent of the total, were harvested by 138 vessels of between 65 and 99 feet in length, a class of vessel relatively new to many Canadian ports, but a growing segment of the fleet.

Because of fish migration and weather, there is an extreme seasonal variability in Atlantic Canada groundfish landings along some coasts, as in the Northeastern United States, as seen in the monthly landings presented in table 4. Total landings of the subject groundfish in 1983 peaked in June with 230 million pounds and reached a low in December with 50 million pounds. Landed value peaked in July at \$32 million and reached a low of \$6 million in December.

Processors.--The fish-processing industry in Atlantic Canada consisted of some 15,683 employees (excluding Quebec) and 325 establishments in 1983. Total production of fish products amounted to Can \$1.49 billion, of which Can \$43 million consisted of fresh, frozen, and cured products made from the subject groundfish.

The processing sector of the industry is as diverse in scale and distribution as is the harvesting sector. As in the Northeastern United States, the processing of groundfish is exclusively an onshore activity--in fact, so-called factory-freezer-trawlers are banned from Atlantic Canada fisheries, largely because they take away from onshore processing employment. The scale of operations of the hundreds of fish plants in the region ranges from tiny, family-operated, backyard businesses operating only a few months of the year to huge, 1,000-employee plants operating year round.

Table 4.--Certain Atlantic groundfish: Canadian landings, by species and by months, 1983 1/ 2/

Species	January	February	March	April	May	June	July	August	September	October	November	December
Quantity (1,000 pounds)												
Cod-----	48,221	81,189	76,608	73,237	133,912	182,664	156,198	95,408	112,957	60,505	53,631	34,125
Haddock-----	5,018	7,141	6,087	10,957	9,502	10,229	8,896	7,923	10,408	6,206	2,388	2,328
Flatfish-----	6,746	4,658	4,755	8,944	18,990	25,886	18,003	20,232	21,475	16,982	13,281	10,849
Pollock-----	3,750	2,866	2,835	5,254	11,444	11,080	13,223	9,226	7,445	3,406	1,208	2,681
Total-----	63,735	95,854	90,285	98,392	173,848	229,859	196,320	132,789	152,285	87,099	70,508	49,983
Value (1,000 dollars)												
Cod-----	5,759	10,206	10,075	9,197	18,724	25,145	26,427	12,870	16,059	9,139	6,865	4,441
Haddock-----	1,067	1,465	1,233	2,320	1,975	2,267	2,541	1,417	2,531	1,521	570	665
Flatfish-----	724	510	518	981	2,162	2,944	2,074	2,220	2,395	1,980	1,429	1,089
Pollock-----	288	248	226	554	1,077	1,044	1,228	877	721	338	130	303
Total-----	7,838	12,429	12,052	13,052	23,938	31,400	32,270	17,384	21,706	12,978	8,994	6,498
Unit value (cents per pound)												
Cod-----	12	13	13	13	14	14	17	13	14	15	13	13
Haddock-----	21	21	20	21	21	22	29	18	24	25	24	28
Flatfish-----	11	11	11	11	15	11	12	11	11	12	11	10
Pollock-----	08	09	08	11	09	09	09	10	10	10	11	11
Average-----	12	13	13	13	14	14	16	13	14	15	13	13

1/ Preliminary.

2/ Excludes hake.

Source: Compiled from official statistics of the Canadian Department of Fisheries and Oceans.

The number of processing establishments in the Atlantic Provinces appears to have been stable during 1980-82, ranging between 290 and 292 plants, before jumping to 325 in 1983. This increase was mainly in Newfoundland establishments and may largely be a statistical error, as it is believed the above data do not account for a substantial number of small, seasonal operations that are found scattered along the coasts of each Atlantic Province.

It is not known how many of these establishments are involved in fresh groundfish processing, either exclusively or in combination with other fish products. It is believed that most such operations are located in Nova Scotia and New Brunswick, with additional substantial production of fresh groundfish in Newfoundland for air shipment to the United States and shipment to Nova Scotia for further processing and marketing to U.S. markets. Further, most of these fresh groundfish processors are believed to be small operations, exporting their product either directly or through the larger processors. In Newfoundland, it seems likely that much of the fresh fish production is along the south coast of Newfoundland, close to Nova Scotia, an area which is dominated by relatively large processing operations.

Production of the subject fresh groundfish products in Atlantic Canada in 1982, the latest period for which data are available, is shown in table 5. A total of 50 million pounds of whole fresh groundfish were "produced" in the region's processing plants. Of this, 22 million pounds (44 percent) were produced in Nova Scotia, and 22 million pounds (44 percent) were produced in Newfoundland. Cod made up the bulk of this whole fish production, accounting for 32 million pounds (63 percent of the total), of which 22 million pounds (69 percent) were produced in Newfoundland and 7 million pounds (21 percent), were produced in Nova Scotia. Also important was haddock, of which 11 million pounds were produced in Atlantic Canada, nearly all in Nova Scotia.

Production of fresh fillets in Atlantic Canada in 1982 totaled 23 million pounds, of which 14 million pounds (63 percent) were produced in Nova Scotia, and 7 million pounds (30 percent) were produced in Newfoundland. As with whole fish, cod was of primary importance, totaling 13 million pounds, or 59 percent of total fillet production, the bulk of which was split evenly between Nova Scotia (47 percent) and Newfoundland (46 percent). Haddock fillet production was also substantial, with 5 million pounds produced, nearly all in Nova Scotia.

In addition, Nova Scotia produced nearly all fresh whole and filleted pollock and roughly two-thirds of all Atlantic Canada fresh whole and filleted flatfish. Nova Scotia and New Brunswick produced most fresh whole hake (and cusk), jointly accounting for 86 percent of total production, while Prince Edward Island produced the majority of Atlantic Canada production of hake (and cusk) fillets.

The Question of Alleged Material Injury

U.S. fishermen

The Commission sent questionnaires to a random sample of 60 vessel owners in an attempt to gather data on vessel profitability and lost revenues.

Table 5.--Fresh Atlantic groundfish: Canadian production, by product forms, by species, and by Atlantic Provinces, 1982

(In thousands of pounds, product weight)

Product and species	Nova Scotia	New Brunswick	Prince Edward Island	Quebec	Newfoundland	Region total
Whole fish:						
Cod-----	6,526	1,462	650	1,259	21,667	31,563
Haddock-----	11,140	243	2/	2/	2/	11,382
Pollock-----	1,012	2/	2/	2/	2/	1,012
Flatfish-----	1,850	238	606	77	282	3,053
Hake 1/-----	1,433	1,241	399	31	2/	3,104
Total-----	21,960	3,183	1,656	1,367	21,949	50,115
Filletts:						
Cod-----	6,270	77	496	437	6,129	13,408
Haddock-----	5,192	130	2/	2/	79	5,401
Pollock-----	1,345	0	2/	2/	7	1,351
Flatfish-----	1,515	71	2/	183	635	2,403
Hake 1/-----	60	2/	183	2/	40	282
Total-----	14,381	278	679	619	6,889	22,846

1/ Includes cusk.

2/ Not available.

Source: Canadian Department of Fisheries and Oceans Canada, Annual Statistical Review of Canadian Fisheries, 1982, Vol. 15, pp. 87-102, tables 72-76.

Note: Items may not add to totals due to rounding.

Members of the various fishermen's associations that support the petition for the instant investigation were the recipients of these questionnaires. The Commission staff distributed an additional 20 questionnaires to vessel captains interviewed during field work. Forty-four questionnaires were returned, and usable information obtained from them is incorporated in the financial performance section of this report. Other data presented in this report are official statistics of the U.S. Department of Commerce.

U.S. commercial landings.--U.S. commercial landings 1/ of the groundfish covered by this investigation declined irregularly from 369 million pounds in 1982 to 337 million pounds in 1984, or by 8 percent (table 6). Landings also fell from 77 million pounds in January-March 1984 to 66 million pounds in January-March 1985, or by 14 percent. The value of these declining landings increased steadily from 1982 to 1984, but fell by 5 percent from January-March 1984 to January-March 1985.

Number of vessels and employment.--The number of fishing vessels landing groundfish in New England and the employment on those vessels, as reported by

1/ Commercial landings are the equivalent of U.S. production.

the National Marine Fisheries Service, are presented in the following tabulation:

	<u>1982</u>	<u>1983</u>	<u>1984</u>
Otter trawlers:			
Number:			
5-50 gross tons-----	408	374	385
51-150 gross tons-----	353	375	406
Over 150 gross tons-----	<u>79</u>	<u>86</u>	<u>87</u>
Total-----	840	835	878
Employment:			
5-50 gross tons-----	1,119	1,054	1,078
51-150 gross tons-----	1,920	2,049	2,207
Over 150 gross tons-----	<u>587</u>	<u>637</u>	<u>626</u>
Total-----	3,626	3,740	3,911
Longliners:			
Number-----	<u>1/</u>	52	52
Employment-----	<u>1/</u>	172	166
Gillnetters:			
Number-----	<u>1/</u>	145	138
Employment-----	<u>1/</u>	435	434
Total vessels-----	<u>1/</u>	1,032	1,068
Total employment-----	<u>1/</u>	4,347	4,511

1/ Not available.

Complete data from 1982 are available for otter trawl gear only; such vessels account for an estimated 91 and 94 percent of the volume and value, respectively, of all Northeastern United States landings of the subject groundfish. 1/ The total number of otter trawlers harvesting groundfish in New England decreased by 1 percent from 1982 to 1983, from 840 to 835, before increasing by 5 percent to 878 vessels in 1984. The greatest change occurred in the number of vessels in the 51-150 gross ton range, which increased from 353 to 406 during the 3-year period. This increase was partially offset by a decrease in the number of smaller vessels, between 5 and 50 gross tons, which fell from 408 to 385 during 1982-84. This apparent shift from small to large vessels is a definite trend in some New England ports, because, according to industry sources, a larger vessel enhances the ability to both make longer trips and fish a greater number of days each year by withstanding rougher weather and sea conditions and because a larger, better-equipped vessel means a less-fatiguing job for its crew, which allows them to work harder. Also, according to some industry members, there was a general increase in fishing vessels on the market after 1981, including an increase in vessel availability from other U.S. ports in the South Atlantic and the Gulf of Mexico, which

1/ James Kirkley, "An Empirical Analysis of Production in Single and Multispecies Fisheries", in Conrad, et al., Lectures on the Economics of Fisheries Production, National Marine Fisheries Service, Northeast Fisheries Center, Woods Hole, MA, July 1984, pp. 68-71, tables 1 and 2.

Table 6.--Certain fresh Atlantic groundfish: U.S. landings, by species, 1982-84, January-March 1984, and January-March 1985

Item	1982	1983	1984	January-March-- 1/	
				1984	1985
Quantity (1,000 pounds)					
Cod-----	104,438	112,474	96,775	24,765	19,835
Flatfish-----	155,016	187,170	154,682	34,329	27,866
Pollock-----	31,352	30,820	39,536	8,317	13,417
Haddock-----	44,835	32,563	25,997	6,997	2,958
Hake-----	33,489	18,907	19,943	2,857	2,285
Total-----	369,130	381,934	336,933	77,265	66,361
Value (1,000 dollars)					
Cod-----	37,385	37,928	36,143	9,986	8,858
Flatfish-----	83,200	98,015	106,061	26,768	26,797
Pollock-----	7,019	5,386	6,439	1,644	1,992
Haddock-----	22,314	18,969	18,352	4,588	2,944
Hake-----	3,263	2,816	3,104	783	842
Total-----	153,181	163,114	170,099	43,769	41,433
Unit value (cents per pound)					
Cod-----	35	33	37	40	44
Flatfish-----	53	52	68	77	96
Pollock-----	22	17	16	19	14
Haddock-----	49	58	70	65	99
Hake-----	09	14	15	27	36
Average-----	41	42	50	56	62

1/ Landings for Maine, New Hampshire, Massachusetts, Rhode Island, New York, New Jersey, Maryland, and Virginia only.

Source: Compiled from official data of the National Marine Fisheries Service.

pulled used vessel prices down enough that in some cases a fisherman could economically sell his small vessel and buy an older, larger vessel. Last, and perhaps most important, a larger vessel allows a fisherman to harvest a greater volume of a wider variety of species, alleviating somewhat the adverse effects of low or fluctuating market prices.

The number of longliners remained steady during 1983-84, at 52 vessels, although employment declined from 172 persons in 1983 to 166 persons in 1984. The number of vessels using gill nets decreased from 145 in 1983 to 138 in 1984, and employment declined slightly from 435 to 434 during the same period. The decline in the number of gillnetters may also be related to the

increase in otter trawlers, as some former gillnetters may have opted for larger otter trawlers.

Financial experience of vessel owners.--Thirty vessel owners that received Commission questionnaires responded to the profit-and-loss section of those questionnaires. However, only 15 provided usable income-and-loss data on landings of groundfish for full years 1982-84.

Questionnaires were not used unless a minimum of 50 percent of the vessel's landings were the groundfish species covered by this investigation. Additionally, several responses were not used because the vessel owner was unable to provide profit-and-loss data for the entire period. Finally, other vessel owners did not provide data on all of the line items needed to determine profitability and thus their returns were not included.

Aggregate gross revenues of the 15 vessels declined by 2 percent from \$7.3 million in 1982 to \$7.1 million in 1984 (table 7). Net losses before taxes were \$373,434, or 5.1 percent of gross revenues, in 1982, \$398,262, or 5.5 percent of gross revenues, in 1983, and \$563,545, or 7.9 percent of gross revenues, in 1984. Captains' and crew shares (salaries) fell 8 percent from \$2.8 million, or 38.5 percent of gross revenues, in 1982 to \$2.6 million, or 36.2 percent of gross revenues, in 1984. Expenses of trips, which include such items as fuel, ice, and groceries, remained relatively constant at 29.0 percent, 28.5 percent, and 30.2 percent of gross revenues in 1982, 1983, and 1984, respectively. All other expenses, which include gear, nets, vessel repair and maintenance, insurance relating to fishing operations, taxes and licenses other than Federal and State income taxes, and any other related

Table 7.--Income-and-loss experience of 15 New England vessel owners, accounting years 1982-84

Item	1982	1983	1984
Gross revenues-----dollars--	7,281,636	7,232,234	7,143,420
Expenses of trips-----do----	2,109,579	2,059,794	2,154,377
Captains' and/or crew shares-----do----	2,800,092	2,708,781	2,583,353
Depreciation-----do----	668,095	683,963	666,718
Interest expenses-----do----	615,137	616,911	584,901
All other expenses-----do----	1,462,167	1,561,047	1,717,616
Total expenses-----do----	7,655,070	7,630,496	7,706,965
Net (losses) before taxes-----do----	(373,434)	(398,262)	(563,545)
As a share of gross revenues:			
Expenses of trips-----percent--	29.0	28.5	30.2
Captains' and/or crew shares-----do----	38.5	37.5	36.2
Interest expenses-----do----	8.4	8.5	8.2
All other expenses-----do----	20.1	21.6	24.0
Total expenses-----do----	105.1	105.5	107.9
Net (losses) before taxes-----do----	(5.1)	(5.5)	(7.9)
Number of vessels reporting losses-----	9	11	11

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

vessel expenses, rose from 20.1 percent of gross revenues in 1982 to 24.0 percent in 1984. Nine vessels reported net losses before taxes in 1982, compared with 11 in both 1983 and 1984.

Four vessel owners purchased vessels during 1982-84 and thus were unable to provide data for the three full accounting years. Their aggregated financial experiences since purchasing their vessels are shown below:

	<u>1983</u>	<u>1984</u>	<u>Interim period</u> <u>ended June 30,-- 1/</u>	
			<u>1984</u>	<u>1985</u>
Gross revenues-----	\$1,338,817	\$1,233,436	***	***
Net (losses) before taxes-----	(\$213,882)	(\$204,442)	***	***
Ratio of net (losses) to gross revenues-----percent--	(16.0)	(16.6)	***	***

1/ Interim period data are for only 2 of the 4 vessel owners.

One vessel owner who purchased a vessel during 1983 was only able to provide data for 1984. His financial experience for that year was as follows:

Gross revenues-----	***
Net (loss) before taxes-----	***
Ratio of net (loss) to gross revenues-----percent--	***

Resource availability.--The groundfish resources available to Northeastern United States fishermen and Atlantic Canada fishermen have, at times in recent years, been subject to excessive fishing effort and, consequently, various forms of Government regulation and management. This management carries implications not only for resource availability for the industry and consumers, but also for industry performance and relative competitiveness.

Following a precipitous decline in groundfish harvests from the waters off northeastern North America, from a record high of 5.9 billion pounds in 1968 to 3.9 billion pounds in 1974, industry members and Government officials in the United States and Canada grew concerned that the high level of foreign fishing efforts in the Northwest Atlantic was injuring the harvesting sectors of the groundfish industries of both nations as well as endangering the fish resources themselves. In the mid-1970's, a system of quota controls on harvests was instituted by the then-governing body of offshore fishing, the International Commission for the Northwest Atlantic Fisheries (which was later changed to the Northwest Atlantic Fisheries Organization). Total allowable catches (TAC's) were imposed on each species in each of several areas delineated on a grid over the Atlantic waters off northeastern North America and west of Greenland. Separate quotas were allocated by country.

Starting in the 1960's, rising harvesting effort in the waters off the Northeastern United States, particularly by "distant water" fleets from Soviet

bloc and Western European nations, placed many major groundfish species in jeopardy, bringing their populations to such low levels that sustainable yields were falling. Pressure grew in many countries, including the United States and Canada, to institute fishery conservation zones, so-called 200-mile limits extending national jurisdiction over harvesting rights and fisheries management to 200 nautical miles from a nation's shoreline. Such legislation was implemented in Canada in January 1977 and in the United States (the Magnuson Fishery Conservation and Management Act) in March 1977.

The MFCMA gives U.S. fishermen priority in harvesting fishery resources within U.S. jurisdiction (200 miles); however, where U.S. harvesting capacity is inadequate to fully utilize the TAC of a particular fishery, foreign fleets are to be given allocations out of the particular fishery's total allowable level of foreign fishing (TALFF), that portion of the TAC not able to be harvested by U.S. vessels. Both TAC's and TALFF's are assessed annually and readjusted as necessary. There are currently no TALFF's for any of the subject groundfish in the Northeastern United States.

The MFCMA also set up eight regional fishery management councils, of which two, the New England and the mid-Atlantic councils, are responsible for fishing areas of concern in this investigation. These councils are each composed of State government officials, the regional director of the National Marine Fisheries Service, and "qualified individuals" knowledgeable about harvesting or fisheries management and conservation who are appointed by the Secretary of Commerce from lists submitted by the Governors of the member States.

During January 1979-March 1982, the groundfish management plan of the New England Fishery Management Council regulated the harvesting of cod, haddock, and yellowtail flounder only, the latter two being the resources most adversely affected by the heavy foreign fishing prior to 1977. Quarterly quotas were set by fishing ground, vessel size, and species; these dictated the maximum allowable catch of each species by each vessel category. However, rarely were these quotas restrictive, as evidenced by the fact that fisheries were almost never closed because of filled quotas. The only exception to open fisheries was (and continues to be) the haddock fishery, for which the spawning grounds are closed during the spawning period for haddock (usually March through May). This also affects landings of cod and flounders, which are frequently located on the same grounds as haddock.

As a result of poor compliance and ineffective enforcement of the plan's restrictions, the groundfish management plan was discontinued in 1982 in favor of the Interim Plan for Atlantic Groundfish. The new plan became effective on March 31, 1982, and eliminated nearly all restrictions on groundfish harvesting except for a minimum net mesh size of 5.5 inches and minimum lengths of fish that can be landed--no cod or haddock shorter than 17 inches can legally be landed, and no yellowtail flounder shorter than 11 inches can be landed. This restriction, which is currently in effect, applies to anyone who deals in these species of fish (in whole form), whether fishermen, dealers, processors, or wholesalers, and regardless of whether the fish is domestic or imported. In addition to the above regulations, the annual closure of the haddock spawning grounds remains management policy.

A crucially important event affecting the harvesting and management of the groundfish resources of the Gulf of Maine (including Georges Bank) was the October 12, 1984, decision of the International Court of Justice delimiting the Atlantic maritime boundary between the United States and Canada. The dispute between the two countries over a substantial portion of the Gulf of Maine has been one of the most important issues concerning fisheries trade between the Northeastern United States and Atlantic Canada in recent years. This dispute, with origins as far back as the early 1960's, came to a head in 1977 with the extension of U.S. and Canadian maritime boundaries to 200 nautical miles. Because of differing interpretations of the geography of the Atlantic coastline of North America, the boundaries claimed by the United States and Canada overlapped. The area in dispute, comprised primarily of a portion of the Continental Shelf known as Georges Bank, contains some of the world's most productive and valuable fish resources and is a strategic source of the subject groundfish used in fresh fish processing for both the Northeastern United States and Canadian industries. 1/

Assessment of the practical availability of groundfish to Northeastern United States fishermen is carried out annually by the Northeast Fisheries Center of the National Marine Fisheries Service at Woods Hole, MA. Using trawl surveys by research vessels and statistics on commercial harvests, fishing effort, fish sizes and ages, and other parameters, biologists at the Center attempt to assess the biological condition of the groundfish resources, with one objective being to suggest whether current harvest levels can be sustained in the near future. It is a difficult task, due in part to data problems, uncertainty as to the impact of environmental changes on the fish populations, and other complications. Therefore, exact estimates of resource availability are always to be interpreted with caution in assessing the harvest potential for particular fish species.

In recent years, some of the groundfish resources available to Northeastern United States harvesters have been suffering from low population levels, notably haddock and yellowtail flounder (table 8). During much of the period since 1977, these two species have yielded only a fraction of their estimated maximum sustainable yield (MSY). 2/ It seems unlikely, at least for haddock, that the resource will ever recover to reach pre-1960's population levels, since this would require total elimination of both United States and Canadian fishing effort in the Gulf of Maine for several years. Nor would this necessarily be a desirable policy, as the foregone revenues from the resource may exceed the enhanced future value of the larger resource. 3/ Instead, for haddock, a more practical analysis of current availability of the resource is its recent abundance estimates. These are essentially analyses of the "recruitment" of haddock into the fishery, that is, when a segment of the

1/ For an assessment of the Court's decision and the possible effects on the major groundfish species of the area, see the U.S. International Trade Commission's report on investigation No. 332-173, Conditions of Competition Affecting the Northeastern U.S. Groundfish and Scallop Industries in Selected Markets (USITC Pub. 1622, December 1984).

2/ The MSY, a long-term biological assessment of fishery stocks, is defined as the largest annual catch of fish or shellfish that can be taken continuously from a stock under existing environmental circumstances.

3/ Testimony of Jacob Dykstra, conference transcript, p. 57.

Table 8.--Certain Atlantic groundfish in the U.S. Fishery Conservation Zone:
Northeastern United States harvests, Canadian harvests, total allowable
catches, and biomasses, by selected species, 1977-84

(In thousands of metric tons)						
Item	Harvest			Total allowable catch <u>1/</u>	Biomass <u>2/</u>	
	United States	Canada	Total			
Cod:						
1977-----	33.5	2.4	35.9	38.7	<u>3/</u>	
1978-----	39.0	9.3	48.3	34.0	<u>3/</u>	
1979-----	44.3	6.4	50.7	46.6	<u>3/</u>	
1980-----	53.5	8.3	61.8	44.5	<u>3/</u>	
1981-----	46.4	9.1	55.8	44.5	<u>3/</u>	
1982-----	52.9	19.3	72.2	<u>4/</u>	<u>3/</u>	
1983-----	50.8	14.8	65.6	<u>4/</u>	<u>3/</u>	
1984-----	43.7	7.2	50.9	<u>4/</u>	<u>3/</u>	
Haddock:						
1977-----	11.7	2.9	14.6	10.5	<u>5/</u> 90	
1978-----	17.1	10.8	27.9	19.0	<u>5/</u> 90	
1979-----	19.3	5.5	24.8	31.1	<u>5/</u> 78	
1980-----	25.4	10.3	35.7	32.5	<u>5/</u> 110	
1981-----	25.4	6.2	31.6	32.5	<u>5/</u> 65	
1982-----	18.8	6.7	25.5	<u>4/</u>	<u>5/</u> 40	
1983-----	14.9	4.2	19.1	<u>4/</u>	<u>5/</u> 28	
1984-----	11.6	3.6	15.2	<u>4/</u>	<u>5/</u> 20	
Pollock:						
1977-----	15.8	25.4	41.2	30.0	260	
1978-----	19.5	27.7	47.1	<u>6/</u>	280	
1979-----	17.3	31.1	48.4	<u>6/</u>	310	
1980-----	20.4	37.2	57.6	<u>6/</u>	320	
1981-----	20.5	40.8	61.2	<u>6/</u>	322	
1982-----	16.4	38.4	54.8	<u>6/</u>	295	
1983-----	16.0	35.0	51.0	<u>6/</u>	296	
1984-----	4.0	35.0	49.0	<u>6/</u>	312	
White hake:						
1977-----	3.9	.4	4.3	<u>7/</u>	<u>3/</u>	
1978-----	3.8	.2	4.0	<u>7/</u>	<u>3/</u>	
1979-----	3.1	.3	3.4	<u>7/</u>	<u>3/</u>	
1980-----	3.6	.3	3.9	<u>7/</u>	<u>3/</u>	
1981-----	5.6	.5	6.1	<u>7/</u>	<u>3/</u>	
1982-----	6.0	.8	6.8	<u>7/</u>	<u>3/</u>	
1983-----	6.2	.8	7.0	<u>7/</u>	<u>3/</u>	
1984-----	6.5	1.0	7.5	<u>7/</u>	<u>3/</u>	
Red hake:						
1977-----	3.4	<u>8/</u>	8.6	44.0	42	
1978-----	4.2	<u>8/</u>	6.4	36.5	50	
1979-----	7.4	<u>8/</u>	8.4	32.0	60	
1980-----	4.7	<u>8/</u>	4.8	17.1	65	
1981-----	2.9	<u>8/</u>	3.1	22.0	83	

See footnotes at end of table.

Table 8.--Certain Atlantic groundfish in the U.S. Fishery Conservation Zone: Northeastern United States harvests, Canadian harvests, total allowable catches, and biomasses, by selected species, 1977-84--Continued

(In thousands of metric tons)

Item	Harvest			Total allowable catch <u>1/</u>	Biomass <u>2/</u>
	United States	Canada	Total		
1982-----	1.5	<u>8/</u>	1.7	22.0	96
1983-----	1.8	<u>8/</u>	1.9	22.0	104
1984-----	2.3	<u>8/</u>	2.4	<u>3/</u>	110
Yellowtail flounder:					
1977-----	16.3	0.1	16.4	16.0	<u>3/</u>
1978-----	10.9	.1	11.0	8.1	<u>3/</u>
1979-----	15.6	-	15.6	8.5	<u>3/</u>
1980-----	18.1	.1	18.2	10.0	<u>3/</u>
1981-----	15.1	-	15.1	10.0	<u>3/</u>
1982-----	24.4	-	24.4	<u>4/</u>	<u>3/</u>
1983-----	32.8	-	32.8	<u>4/</u>	<u>3/</u>
1984-----	17.5	-	17.5	<u>4/</u>	<u>3/</u>
Other flatfish: <u>9/</u> :					
1977-----	29.1	.2	29.3	<u>7/</u>	<u>3/</u>
1978-----	33.8	.2	34.0	<u>7/</u>	<u>3/</u>
1979-----	59.5	.1	59.6	<u>7/</u>	<u>3/</u>
1980-----	68.0	.1	68.1	<u>7/</u>	<u>3/</u>
1981-----	41.8	-	41.8	<u>7/</u>	<u>3/</u>
1982-----	45.8	.1	45.9	<u>7/</u>	<u>3/</u>
1983-----	46.3	-	46.3	<u>7/</u>	<u>3/</u>
1984-----	43.4	-	43.4	<u>7/</u>	<u>3/</u>

1/ Total allowable catch is the maximum harvest allowed under the government regulatory scheme in effect during a given year.

2/ Biomass is the total weight of the spawning population of the fish species.

3/ Not available.

4/ U.S. quota management of this fishery ended on March 31, 1982.

5/ Includes Georges Bank stock only, which accounted for 72 percent of total U.S. harvest of haddock during 1977-83.

6/ Management of this fishery ended with implementation of extended fisheries jurisdiction in March 1977.

7/ No management plan has been developed for this fishery.

8/ Canada harvested no red hake from this fishery during 1977-84.

9/ Includes winter and summer flounders, gray sole, and dab.

Source: National Marine Fisheries Service, Status of the Fishery Resources of the Northeastern United States for 1983, NOAA Technical Memorandum NMFS-F/NEC-29, July 1984.

haddock population born in a given year will grow large enough to be harvested. Recruitment of a haddock year-class generally takes 2 to 3 years, so that the class of haddock born in 1978 started to support fishing efforts in 1980 or 1981. Recent good haddock year-classes, which are largely determined by environmental factors and are difficult to predict, occurred in 1975 and 1978, and the latter supported the relatively high catch rates of the early 1980's. However, there have been no succeeding good year-classes (through 1984), and the annual haddock harvest (by both United States and Canadian vessels, which depend on the same haddock resource) has consequently declined. 1/

The abundance of yellowtail flounder increased significantly from its depleted state prior to the 200-mile limit, with catches rising from an average of 6,000 metric tons annually during 1979-80 to 11,000-12,000 metric tons during 1982-83. This apparent increase in abundance was due largely to a strong 1980 year-class that recruited into the fishery in 1982. However, as with haddock, the high catch rates during 1982-83 possibly had an (indeterminable) impact on the spawning potential of that species. Combined with unfavorable environmental impacts on subsequent year-classes, such harvesting may have influenced the declining catches experienced since 1983. By one report, the 1982 and 1983 year-classes (which would support harvests in 1985 and beyond) "appear to be among the weakest on record", 2/ with no signs (through 1984) of improvement in the near future.

Other species of flatfish are in varying conditions. Summer flounder (fluke), gray sole (witch flounder), and winter flounder (blackback or lemon sole), are in somewhat poor shape, with recent catch rates not likely to be sustainable given the evidence of declining biomasses of the species. Sea dab (American plaice) is in good condition, with current catches likely to be sustainable.

The other subject groundfish resources are in relatively good shape. The cod resource available to Northeastern United States fishermen is in substantially good health. However, with recent catch rates quite high from a historic perspective, averaging 104 million pounds during 1982-84 and somewhat above the MSY of 100 million pounds, NMFS biologists believe that the resource bears monitoring, as it cannot sustain such harvest levels as the 1983 harvest (111 million pounds) in the long run. The pollock resource has recently experienced high fishing levels, but this traditionally underutilized groundfish species is considered to be in strong shape. Likewise, hake, which has never been subjected to extremely high fishing pressure, owing to

1/ The harvest of haddock in the Georges Bank area increased from 10,800 metric tons in 1977 to 27,600 metric tons in 1980, then declined to 11,000 metric tons in 1984, according to NMFS biologists. There is a small haddock fishery in the upper Gulf of Maine, with a potential annual harvest of about 5,000 metric tons; total harvests there averaged 6,000-7,000 metric tons during 1979-83, then dropped to 3,800 metric tons in 1984. Although 1984 figures are not yet available, the NMFS data through 1983 indicate that the haddock biomass (the total population weight) in the Georges Bank area declined by 75 percent from 1980 to 1983.

2/ Clark, et al., Yellowtail Flounder Assessment Update--1984, National Marine Fisheries Service, Northeast Fisheries Center, Woods Hole Laboratory Reference Document No. 84-39, p. 14.

traditionally limited markets, is in strong shape with no resource-related harvesting problems.

Processors

The Commission sent questionnaires to 40 processors of the groundfish covered by this investigation in an attempt to gather traditional information on the operations of these firms. These firms are estimated to account for over 70 percent of U.S. production of the products covered by this investigation. Ten questionnaires were returned due to the fact that the firms were no longer in business. Usable data from the returns are presented where they are believed to be meaningful.

U.S. production.--According to unpublished statistics of the NMFS, U.S. production of fresh groundfish fillets rose from 92 million pounds valued at \$172 million in 1982 to 98 million pounds valued at \$193 million in 1984, as shown in table 9.

Domestic shipments.--U.S. processors were asked to report their shipments of fresh fillets in the Commission's questionnaire, as well as the share of their total shipments to areas within the Northeastern United States and outside the region. Only two relatively small processors provided the requested shipment data, although six firms estimated the share of their shipments made to areas outside the region. Those six firms estimated that the share of their total shipments to areas outside the region varied from 0 to 90 percent. Due to the fact that four of these firms did not provide quantity data on shipments, these responses cannot be weighted to derive a meaningful conclusion on total industry shipments out of the region, and no official Government or private studies are known to exist regarding this issue.

Employment.--Yearly employment in Northeastern United States fresh groundfish processing plants in 1984 ^{1/} was 3,093 persons, more than half of whom were located in Massachusetts. Employment in fresh groundfish processing exhibits the seasonal trends expected from reliance on a seasonal supply of perishable raw material. The following tabulation shows monthly employment in 1984 in Massachusetts fresh groundfish processing plants (NMFS data):

<u>Month</u>	<u>Employment</u>
January-----	1,568
February-----	1,565
March-----	1,608
April-----	1,671
May-----	1,730
June-----	1,821
July-----	1,813
August-----	1,564
September-----	1,447
October-----	1,359
November-----	1,309
December-----	1,234

^{1/} Data for previous years are unavailable at this time.

Table 9.--Fresh groundfish fillets: 1/ Northeastern U.S. production, by species, 1982-84

Species	1982	1983	1984
Quantity (1,000 pounds)			
Flatfish-----	51,347	53,118	53,150
Cod-----	23,020	26,834	30,168
Hake-----	<u>2/</u> 1,114	<u>2/</u> 1,454	1,408
Haddock-----	10,912	9,721	7,575
Pollock-----	5,666	4,701	6,003
Total-----	92,059	95,828	98,304
Value (1,000 dollars)			
Flatfish-----	107,142	94,408	118,524
Cod-----	36,911	39,316	50,251
Hake-----	<u>2/</u> 1,281	<u>2/</u> 1,449	1,549
Haddock-----	20,055	18,932	16,825
Pollock-----	6,788	4,962	5,817
Total-----	172,177	159,067	192,966
Unit value (per pound)			
Flatfish-----	\$2.09	\$1.78	\$2.34
Cod-----	1.60	1.47	1.67
Hake-----	1.15	1.00	1.10
Haddock-----	1.84	1.95	2.22
Pollock-----	1.20	1.06	.97
Average-----	1.87	1.66	1.96

1/ Also includes steaks.

2/ Also includes production of frozen fillets.

Source: Compiled from unpublished statistics of the National Marine Fisheries Service.

Financial experience of U.S. processors.--Of the 40 processors to which the Commission sent questionnaires, 2 provided usable income-and-loss data on their overall establishment operations and on their operations processing fresh and chilled whole groundfish fillets.

Fresh and chilled whole groundfish and fillets.--Net sales of the two respondents increased * * * percent from * * * in 1982 to * * * in 1983, then dropped * * * percent to * * * in 1984 (table 10). Net sales for the interim periods were * * * in 1984 and * * * in 1985. Operating results deteriorated from * * *. Operating losses in the interim periods were * * * in 1984 and * * * in 1985. Operating margins were * * * percent in 1982, * * * percent in 1983, * * * percent in 1984, * * * percent in the interim period of 1984, and * * * percent in the interim period of 1985.

Table 10.--Income-and-loss experience of 2 U.S. processors on their operations processing fresh and chilled whole groundfish and fillets, accounting years 1982-84 and interim periods ended June 30, 1984, and June 30, 1985

* * * * *

Overall establishment operations.--Net sales rose 14 percent from * * * in 1982 to * * * in 1984 (table 11). Net sales for the interim periods of 1984 and 1985 were * * * and * * *, respectively. Net income before income taxes in 1982 was * * * or * * * percent of net sales. Net losses before taxes were incurred in 1983 and 1984, totaling * * * or * * * percent of net sales, and * * * or * * * percent of net sales, respectively. Pre-tax losses in the interim periods were * * * in 1984 and * * * in 1985.

Table 11.--Income-and-loss experience of 2 U.S. processors on the overall operations of their establishments within which fresh and chilled whole groundfish and fillets are processed, accounting years 1982-84 and interim periods ended June 30, 1984, and June 30, 1985

* * * * *

The Question of a Reasonable Indication of Threat Of Material Injury

Available data concerning landings of groundfish in Canada are presented in the "Canadian producers" section of this report, and data concerning imports of whole and fillet groundfish from Canada are presented in the "U.S. imports" section.

The Question of the Causal Relationship Between Alleged Material Injury and Allegedly Subsidized Imports From Canada

U.S. imports

Fresh whole groundfish.--U.S. imports of fresh whole groundfish from Canada increased steadily from 36 million pounds in 1982 to 76 million pounds in 1984, or by 111 percent (table 12). Imports then rose from 16 million pounds in January-March 1984 to 20 million pounds in January-March 1985, or by 23 percent. In addition to Canada, fresh whole groundfish were imported in small quantities from about 28 other countries in 1984. However, imports from Canada have accounted for at least 97 percent of total imports from all sources since 1982.

Table 12.--Certain fresh whole Atlantic groundfish: U.S. imports for consumption, by sources, 1982-84, January-March 1984, and January-March 1985

Item	1982	1983	1984	January-March--	
				1984	1985
Quantity (1,000 pounds)					
Canada-----	35,978	46,327	76,107	16,411	20,222
Netherlands-----	361	553	838	190	252
Mexico-----	82	233	336	105	118
All other-----	189	200	477	93	143
Total-----	36,610	47,313	77,758	16,799	20,735
Value (1,000 dollars)					
Canada-----	12,796	17,090	27,704	6,576	7,442
Netherlands-----	1,428	1,842	2,610	631	697
Mexico-----	78	206	198	68	45
All other-----	483	595	1,168	254	306
Total-----	14,785	19,733	31,680	7,529	8,490
Unit value (per pound)					
Canada-----	\$0.35	\$0.37	\$0.36	\$0.40	\$0.37
Netherlands-----	3.95	3.33	3.11	3.33	2.77
Mexico-----	.95	.88	.59	.65	.39
All other-----	2.55	2.97	2.44	2.72	2.13
Average-----	.40	.42	.41	.45	.41

1/ TSUSA items 110.1585, 110.1593, and 110.3560.

Source: Compiled from official data of the U.S. Department of Commerce.

As shown in the following tabulation, the major share of imports enter the United States through Customs districts located in the Northeast: 1/

<u>Period</u>	<u>Share of total imports</u> (percent)
1982-----	83
1983-----	85
1984-----	84
January-March--	
1984-----	89
1985-----	74

1/ Customs districts located in Maine, Vermont, Massachusetts, Connecticut, Rhode Island, New York, Pennsylvania, Maryland, the District of Columbia, and Virginia.

The share of total imports from Canada entered through these districts was 83-85 percent during 1982-84, but fell to 74 percent during January-March 1985.

Fresh groundfish fillets.--Imports of fillets from Canada rose steadily from 16.4 million pounds in 1982 to 21.5 million pounds in 1984, or by 42 percent (table 13). Imports then declined from 6.3 million pounds in January-March 1984 to 5.5 million pounds in January-March 1985, or by 13 percent. The unit value of these imports remained stable during 1983-84. However, the unit value fell from \$0.40 per pound in January-March 1984 to \$0.37 per pound in January-March 1985.

Table 13.--Certain fresh whole Atlantic groundfish fillets: 1/ U.S. imports for consumption, by sources, 1982-84, January-March 1984, and January-March 1985

Item	1982	1983	1984	January-March--	
				1984	1985
Quantity (1,000 pounds)					
Canada-----	16,384	17,692	21,482	6,306	5,497
Iceland-----	672	1,639	1,360	312	534
Denmark-----	2/	126	227	80	99
All other-----	168	269	787	1,005	528
Total-----	17,224	19,726	23,856	6,916	6,658
Value (1,000 dollars)					
Canada-----	20,320	21,252	25,860	7,288	7,073
Iceland-----	760	2,192	1,821	448	762
Denmark-----	2/	296	336	72	201
All other-----	255	691	1,346	398	1,067
Total-----	21,335	24,431	29,357	8,206	9,103
Unit value (per pound)					
Canada-----	\$1.24	\$1.20	\$1.20	\$1.15	\$1.28
Iceland-----	1.13	1.33	1.33	1.43	1.42
Denmark-----	-	2.34	1.45	.90	2.03
All other-----	1.51	2.56	1.71	.39	2.02
Average-----	1.23	1.23	1.23	1.18	1.36

1/ TSUSA items 110.5545, 110.5565, and 110.7033.

2/ Less than 500.

Source: Compiled from official data of the U.S. Department of Commerce.

Imports of fresh groundfish fillets also enter the United States primarily through Customs districts located in the Northeastern United States, as shown in following tabulation:

<u>Period</u>	<u>Share of total imports (percent)</u>
1982-----	86
1983-----	87
1984-----	89
January-March:	
1984-----	88
1985-----	88

The share of total imports from Canada entered through these districts was 86-89 percent during 1982-84, but fell to 73 percent during January-March 1985.

Market penetration

Fresh whole groundfish.--Imports of fresh whole groundfish from Canada increased steadily from 9 percent of apparent consumption in 1982 to 18 percent in 1984 (table 14). Imports from Canada rose to 23 percent of apparent consumption in January-March 1985, an increase from 18 percent in January-March 1984.

Table 14.--Certain fresh whole Atlantic groundfish: U.S. imports from Canada and apparent U.S. consumption, 1982-84, January-March 1984, and January-March 1985

<u>Period</u>	<u>Imports from Canada</u>	<u>Apparent U.S. consumption</u>	<u>Ratio of imports from Canada to apparent U.S. consumption</u>
	<u>-----1,000 pounds-----</u>		<u>Percent</u>
1982-----	35,978	405,740	8.9
1983-----	46,327	429,247	10.8
1984-----	76,107	414,691	18.4
January-March--			
1984-----	16,411	94,064	17.5
1985-----	20,222	87,096	23.3

Source: Compiled from official statistics of the U.S. Department of Commerce.

The ratios of imports from Canada into the Northeastern United States to U.S. landings in that region during 1982-84, January-March 1984, and January-March 1985 are shown below:

<u>Period</u>	<u>Ratio of imports from Canada to U.S. landings (percent)</u>
1982-----	8.2
1983-----	10.4
1984-----	19.1
January-March:	
1984-----	19.1
1985-----	22.6

Fresh ground fillets.--Imports of fresh groundfish fillets from Canada increased from 14 percent of apparent consumption in 1982 to 17 percent of apparent consumption in 1984 (table 15).

Table 15.--Certain fresh Atlantic groundfish fillets: U.S. imports from Canada and apparent U.S. consumption, 1982-84

<u>Period</u>	<u>Imports from Canada</u>	<u>Apparent U.S. consumption</u>	<u>Ratio of imports from Canada to apparent U.S. consumption</u>
	<u>1,000 pounds</u>		<u>Percent</u>
1982-----	16,384	109,283	14
1983-----	17,692	115,554	15
1984-----	21,482	122,160	17

Source: Compiled from official statistics of the U.S. Department of Commerce.

A comparison of imports of fillets from Canada entered through Northeastern United States Customs districts to U.S. production is shown below:

<u>Period</u>	<u>Ratio of imports from Canada to U.S. production (percent)</u>
1982-----	15.3
1983-----	16.1
1984-----	19.4

Prices

The Commission received no questionnaires from processors that contained usable price data. An attempt was then made to target the five largest processors and importers at the Boston Fish Pier to obtain usable price information. These five processors and importers, who represent approximately 30 percent of the industry, were asked to provide the price they paid for domestic and imported whole fish and their selling price of fillets on the

second Monday of each month from January 1984 to March 1985. 1/ Mondays were selected because industry sources indicated that the bulk of Canadian fish arrive in Boston on Mondays. However, after numerous phone calls from Commission staff members, only one processor supplied usable price information on whole fish, and no data was received on fillet prices. Therefore, the staff obtained the best information possible from the NMFS and other sources from within the Department of Commerce.

Individual fish products are largely homogeneous and marketed in the Northeastern United States by a large number of buyers and sellers. Because fresh fish is such a perishable product, market prices can--and often do--fluctuate widely on a daily basis.

Ex-vessel prices are the initial prices at the lowest marketing level for groundfish. Ex-vessel prices are the actual prices received by fishermen for their landings. Prices vary according to species and are determined by a variety of supply and demand conditions that prevail in the marketplace daily.

Because of the concentration of processors in Boston, ex-vessel prices for much of the fish landed elsewhere in the region are influenced by the prevailing price in that city, less a transportation discount. The transportation discount is calculated on the actual cost of transportation plus a discount for the quality problems associated with trucking groundfish into Boston (i.e., reductions in quality because of the additional handling of the product and the additional time involved in getting the fish to the processors). Fish landed in Boston are processed the same day, while fish landed in Maine usually reach the processors the following day. According to David Bollivar of National Sea Products, Ltd., of Halifax, Nova Scotia, Canadian fish from a number of ports in Nova Scotia take as long as 2 days to reach the processors. Since fresh fillets have only approximately an 8-day shelf life, processors offer lower prices for older fish. This discount is frequently less than \$0.05 per pound for fish from New England ports, but can range up to \$0.10 per pound for Canadian fish.

Daily prices fluctuate according to the volume of fish landed at the Boston Fish Pier or supplied from other sources, including imports. While buyer concentration is typically high in any one port, the effective ex-vessel market is a regional one. Buyers frequently purchase fish from vessels in more than one port, and fishermen often have the option of landing their fish in ports other than their home port.

Two auctions occur daily, one in Boston and the other in New Bedford. The Boston auction price may not be entirely representative of the daily activity of the market since it includes only a fraction of the total quantities of domestic daily landings and rarely includes imported

1/ These processors and importers were * * *.

groundfish. ^{1/} Actual prices paid for fresh groundfish are negotiated on a transaction-by-transaction basis, and therefore a number of factors, including quality considerations and buyer-seller relationships, are likely to cause deviations from the auction price. The auction price is a measure of the price of domestic groundfish at a particular point in time. Imports are not directly included in the determination of this price, although they very likely have an effect to the extent there is adequate information available at the time of the auction.

Other factors that may influence prices include the weather and expectations of changes in the weather. Severe winter weather may completely curtail fishing for days. Heavy seas and icy conditions will cause suspension of fishing in some of the richer fishing banks that are further from U.S. ports, since the average U.S. fishing vessel is not large enough to withstand the harsh conditions that may prevail in bad weather. Expected inclement weather may cause buyers to increase their purchases of available fish and thus drive prices up as the product becomes scarce.

Supplies from previous periods may also have an effect on daily prices. In periods when supply is plentiful, the early morning auction price may be influenced by the previous day's domestic catch or the availability of imports. Imperfect information on the size of the regionwide daily catch or the price of the imports from Canada may also cause deviations in the auction price. Finally, changes in the levels of demand for the processed product will alter the buyers' decisions and could influence the daily price mechanism.

In New Bedford, the daily auction has even less regional influence on price. Entire boatloads of fish are auctioned, instead of individual species, as is done in Boston. Buyers purchase the entire load of fish and payments are made to the boat owner on a species-by-species basis. This creates a range of prices for each species landed that day. Imported groundfish are much less prevalent in New Bedford and have a smaller impact on the auction price there.

Domestic prices.--Table 16 shows domestic monthly ex-vessel prices for a variety of species. This table was constructed from data supplied by the National Marine Fisheries Service on the weighted-average value of landings in the Northeastern United States, as reported by fisherman and processors. Monthly ex-vessel prices fluctuate considerably, not only seasonally with

^{1/} A remarkably widely held misconception, common among Canadian and Northeastern United States industry members alike, concerns the mechanics of the New England Fish Exchange, the so-called Boston auction. Contrary to repeated statements voiced during the field interviews and Commission hearings, it is not illegal for trucked-in fresh fish (Canadian or otherwise) to be sold on the Exchange. Such sales rarely occur (although staff have observed occasional Maine and Massachusetts truckloads sold at the auction), but they are certainly legal, under the rules of the Exchange ("Rules and Regulations: New England Fish Exchange, Jan. 15, 1935, p. 3). One advantage to selling on the auction board is that such sellers are paid within 24 hours, whereas direct sales to buyers at the Fish Pier are not completed for up to 30 days or more.

Table 16.--Ex-vessel prices in the Northeastern United States 1/ for cod, flatfish, 2/ haddock, and pollock, by months, January 1983-February 1985

Period	Cod	Flatfish	Haddock	Pollock
1983:				
January-----	\$0.38	\$0.49	\$0.54	\$0.20
February-----	.35	.71	.53	.24
March-----	.41	.62	.71	.50
April-----	.31	.44	.50	.28
May-----	.27	.36	.61	.20
June-----	.26	.35	.42	.13
July-----	.29	.49	.62	.14
August-----	.39	.50	.58	.15
September-----	.35	.58	.59	.30
October-----	.43	.66	.70	.48
November-----	.39	.63	.80	.14
December-----	.37	.54	.79	.13
1984:				
January-----	.39	.57	.59	.13
February-----	.36	.74	.53	.18
March-----	.54	1.10	1.00	.33
April-----	<u>3/</u>	<u>3/</u>	<u>3/</u>	<u>3/</u>
May-----	<u>3/</u>	<u>3/</u>	<u>3/</u>	<u>3/</u>
June-----	.30	.45	.56	.14
July-----	.35	.57	.77	.14
August-----	.37	.73	.72	.15
September-----	.42	.75	.73	.18
October-----	.49	.69	.86	.16
November-----	.47	.66	1.03	.16
December-----	.44	.74	1.05	.12
1985:				
January-----	.60	1.05	1.29	.12
February-----	.37	.96	.76	.13

1/ Includes landings in Massachusetts, Rhode Island, Maine, and New Hampshire.

2/ Twenty classifications of flounder were used to represent flatfish.

3/ Not available.

Source: Compiled from unpublished statistics of the U.S. Department of Commerce, National Marine Fisheries Service.

landings, but between consecutive months. For instance, the ex-vessel price of pollock decreased from \$0.48 per pound in October 1983 to \$0.14 in November 1984, a decrease of 71 percent in one month. Further, wide fluctuations can occur from day to day, thus making the monthly prices reported in table 16 useful only for trend analysis.

Prices tend to be higher in the winter months when fishing activity is low and generally depressed during the summer months when landings reach their peak. The overall trend for the period January 1983 to February 1985 is upward, except for pollock.

Because of the lack of questionnaire responses and an absence of reliable published data, prices for domestic fillets could not be calculated.

Import prices.--Canadian fresh whole groundfish competes directly with United States fresh whole groundfish at both the ex-vessel and wholesale levels, but may be priced in a variety of ways. For example, the price may be prearranged based on the prevailing market price in Boston. The transaction price for such product is usually the market price less a small discount that is probably related to real or perceived quality differences or possibly the unequal market power of the Canadian exporter vis-a-vis the United States purchaser. Also, groundfish may be trucked into Boston without a previously determined price and simply sold on consignment. Finally, the price may be fixed by short-term contracts between Canadian exporters and United States buyers, usually retailers. This last price mechanism has become increasingly common as a number of supermarket chains have increased their displays of fresh fish. This procedure bypasses the traditional middlemen that further process and package the fish.

Both domestic and import sources agree that Canadian groundfish is priced lower than United States groundfish. However, direct comparisons of imported and domestic prices are unavailable because of the data collection problems noted earlier. Also, even with data, comparisons would be difficult because, in addition to the transportation discounts that were noted earlier, there exist additional real or perceived quality differentials between domestic and imported fish. For example, processors report that Canadian groundfish yield a 3-5 percent smaller fillet than the domestic fish of the same size. ^{1/} Some of this differential may be caused by the transportation problems discussed earlier or by biological facts surrounding the feeding grounds; however, no scientific evidence exists to support this contention.

Tables 17 and 18 depict monthly import unit values for Canadian whole groundfish and groundfish fillets, respectively. Unit values of imported whole fish followed the same seasonal variations as the domestic fish, although the seasonal fluctuations did not seem to be as severe. Monthly unit values for haddock and pollock fluctuated more than those for cod or flatfish. However, because the Department of Commerce reports a collective total for haddock and pollock and there exists a great price disparity between these two species, changes in the import mix could severely bias the series. During January 1983-June 1985, the unit values of imported whole cod have been relatively stable, while those for flatfish have generally risen.

^{1/} Transcript of conference, pp. 142 and 204, and telephone interview with * * *, Aug. 26, 1985.

Table 17.--Average unit values of U.S. imports from Canada of whole cod, flatfish, and haddock and pollock, 1/ by months, January 1983-June 1985

(In cents per pound)

Period	Cod	Flatfish	Haddock and Pollock
1983:			
January-----	38	30	48
February-----	40	37	47
March-----	38	38	50
April-----	41	30	44
May-----	35	26	25
June-----	29	33	15
July-----	38	30	27
August-----	31	38	45
September-----	32	36	42
October-----	35	43	41
November-----	38	36	42
December-----	41	36	45
1984:			
January-----	35	56	49
February-----	40	39	43
March-----	39	40	34
April-----	42	42	28
May-----	34	43	21
June-----	28	33	21
July-----	30	36	47
August-----	30	43	47
September-----	32	41	46
October-----	38	38	36
November-----	38	39	32
December-----	38	43	41
1985:			
January-----	44	51	54
February-----	43	78	53
March-----	36	53	21
April-----	35	72	26
May-----	34	50	20
June-----	34	39	38

1/ Also includes cusk and hake

Source: Compiled from official statistics of the U.S. Department of Commerce.

Table 18.--Average unit values of U.S. imports from Canada of cod, flatfish, and haddock and pollock 1/ fillets, by months, January 1983-June 1985

Period	Cod	Flatfish	Haddock and Pollock
1983:			
January-----	\$1.17	\$1.75	\$1.29
February-----	1.22	1.70	1.25
March-----	1.15	1.91	1.09
April-----	1.16	2.69	1.16
May-----	1.13	2.02	1.07
June-----	1.09	1.55	1.21
July-----	1.08	1.87	1.14
August-----	1.07	1.58	1.16
September-----	1.13	1.58	1.25
October-----	1.14	1.57	1.24
November-----	1.22	1.34	1.32
December-----	1.26	1.54	1.25
1984:			
January-----	1.20	1.86	1.48
February-----	1.12	2.04	1.39
March-----	1.11	2.27	.97
April-----	1.15	2.13	.99
May-----	1.10	1.68	.95
June-----	1.04	1.53	1.00
July-----	1.09	1.42	1.23
August-----	1.05	1.40	1.30
September-----	1.14	1.55	1.24
October-----	1.16	1.77	1.14
November-----	1.19	1.63	1.26
December-----	1.23	1.99	1.15
1985:			
January-----	1.36	2.21	1.18
February-----	1.26	2.40	1.33
March-----	1.11	2.12	1.34
April-----	1.08	2.50	.97
May-----	1.16	1.98	.98
June-----	1.10	1.70	1.05

1/ Also includes cusk and hake

Source: Compiled from official statistics of the U.S. Department of Commerce.

Unit values of groundfish fillets followed the same overall trends as Canadian wholefish. From January 1983 to December 1984, fillet unit values for cod and flatfish remained fairly stable. During January-June 1985, the unit values for flatfish increased, while cod fillets remained at the 1984 levels.

Exchange rates

The nominal value of the Canadian dollar declined steadily from January-March 1983 to January-March 1985, by a total of slightly over 9 percent. However, when the nominal rate is adjusted for inflation by each country's producer price index, the decline is less pronounced. Because the inflation rate in Canada was higher than that in the United States, the real value of the Canadian dollar declined by only 5 percent, as shown in the following tabulation (January-March 1983=100):

Period	U.S. dollars per Canadian dollar 1/ (nominal rate indexed)	U.S. dollars per Canadian dollar 1/ (real rate indexed)
1983:		
January-March-----	100.0	100.0
April-June-----	99.7	100.9
July-September-----	99.6	100.6
October-December-----	99.1	100.1
1984:		
January-March-----	97.8	99.3
April-June-----	95.0	96.9
July-September-----	93.4	96.1
October-December-----	93.1	96.3
1985:		
January-March-----	90.7	94.9

1/ Compiled from International Financial Statistics, International Monetary Fund, August 1985.

Lost sales

The Commission received seven allegations from three U.S. processors regarding sales lost to imports from Canada. Several other processors provided allegations but were unable to provide specific information.

*** of *** confirmed two allegations. His firm purchased Canadian cod fillets in *** for *** per pound after rejecting a quote from a domestic processor of *** per pound. *** further stated that he generally purchases Canadian product during the summer months because of its low price relative to the domestic product.

A domestic processor alleged that in *** the *** purchased Canadian pollock fillets for *** per pound after rejecting an offer of *** per pound for the U.S. product, and that *** purchased Canadian cod fillets at a ***-cent discount from the *** per-pound price offered by the domestic

stated that the Canadian product was only priced * * * cents below the domestic fish on both occasions.

* * * confirmed that he purchased Canadian cod fillets at approximately * * * cents less than the price offered by a domestic processor. He further stated that he purchases fillets at the lowest price available on a given day. He has purchased both domestic and imported fish in varying quantities for 15 years and on any given day domestic or imported fish can be lower priced depending on the supplier.

* * * denied an allegation that they were purchasing Canadian fish. He stated that his firm deals exclusively with two U.S. processors for all of their fresh fish needs.

* * * could neither confirm nor deny an allegation that his firm purchased cod fillets at * * * per pound from Canada after rejecting a quote of * * * per pound from a domestic processor. He did state that * * * per pound was entirely too low of a price. He further stated that this allegation may be a result of his ongoing practice of telling domestic processors that he is able to purchase Canadian fish at a * * * discount in an attempt to leverage a lower price.

APPENDIX A

NOTICES OF INVESTIGATIONS BY THE COMMISSION AND COMMERCE

**[Investigation No. 701-TA-257
(Preliminary)]**

**Certain Fresh Atlantic Groundfish
From Canada**

**AGENCY: International Trade
Commission.**

ACTION: Institution of a preliminary countervailing duty investigation and scheduling of a conference to be held in connection with the investigation.

SUMMARY: The Commission hereby gives notice of the institution of preliminary countervailing duty investigation No. 701-AT-257 (Preliminary) under section 703(a) of the Tariff Act of 1930 (19 U.S.C. 1671b(a)) to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Canada of fresh and chilled cod, haddock, pollock, hake, and flounders and other flatfish (except halibut), whether whole or processed by removal of heads, viscera, fins, or any combination thereof, but not otherwise processed, provided for in items 110.15 and 110.36 of the Tariff Schedules of the United States (TSUS), and of otherwise processed fresh and chilled cod, haddock, pollock, hake, and flounders and other flatfish (except halibut), provided for in items 110.50, 110.55, and 110.70 of the TSUS, which are alleged to be subsidized by the Government of Canada. As provided in section 703(a), the Commission must complete preliminary countervailing duty investigations in 45 days, or in this case by September 19, 1985.

For further information concerning the conduct of this investigation and rules of general application, consult the Commission's Rules of Practice and Procedure, Part 207, Subparts A and B (19 CFR Part 207) and Part 201, subparts A through E (19 CFR Part 201).

EFFECTIVE DATE: August 5, 1985.

FOR FURTHER INFORMATION CONTACT: David Coombs (202-523-1376), Office of Investigations, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20438. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-724-0002.

SUPPLEMENTARY INFORMATION:

Background

This investigation is being instituted in response to a petition filed on August 5, 1985 by the North Atlantic Fisheries Task Force, Gloucester, Massachusetts.

Participation in the investigation

Persons wishing to participate in the investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201-11 of the Commission's rules (19 CFR 201.11) not later than seven (7) days

after publication of this notice in the Federal Register. Any entry of appearance filed after this date will be referred to the Chairwoman, who will determine whether to accept the late entry for good cause shown by the person desiring to file the entry.

Service list

Pursuant to § 201.11(d) of the Commission's rules (19 CFR 201.11(d)), the Secretary will prepare a service list containing the names and addresses of all persons, or their representatives, who are parties to this investigation upon the expiration of the period for filing entries of appearance. In accordance with § 201.16(c) of the rules (19 CFR 201.16(c)), each document filed by a party to the investigation must be served on all other parties to the investigation (as identified by the service list), and a certificate of service must accompany the document. The Secretary will not accept a document for filing without a certificate of service.

Conference

The Commission's Director of Operations has scheduled a conference in connection with this investigation for 9:30 a.m. on August 28, 1985 at the U.S. International Trade Commission Building, 701 E. Street NW., Washington, D.C. Parties wishing to participate in the conference should contact David Coombs (202-523-1376) not later than August 23, 1985 to arrange for their appearance. Parties in support of the imposition of countervailing duties in this investigation and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference.

Written submissions

Any person may submit to the Commission on or before August 30, 1985 a written statement of information pertinent to the subject of the investigation, as provided in § 207.15 of the Commission's rules (19 CFR 207.15). A signed original and fourteen (14) copies of each submission must be filed with the Secretary to the Commission in accordance with § 201.8 of the rules (19 CFR 201.8). All written submission except for confidential business data will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary to the Commission.

Any business information for which confidential treatment is desired must be submitted separately. The envelope and all pages of such submissions must be clearly labeled "Confidential Business Information." Confidential

submissions and requests for confidential treatment must conform with the requirements of § 201.8 of the Commission's rules (19 CFR 201.8).

Authority: This investigation is being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to § 207.12 of the Commission's rules (19 CFR 207.12).

Issued: August 7, 1985.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 85-19359 Filed 8-13-85; 8:45 am]

BILLING CODE 7020-02-0

[C-122-507]

Initiation of Countervailing Duty Investigation; Certain Fresh Atlantic Groundfish from Canada

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: On the basis of a petition filed in proper form with the U.S. Department of Commerce, we are initiating a countervailing duty investigation to determine whether the producers or exporters in Canada of certain fresh Atlantic groundfish, as described in the "Scope of Investigation" section below, receive benefits which constitute subsidies within the meaning of the countervailing duty law. We are notifying the U.S. International Trade Commission (ITC) so that it may determine whether imports of the subject merchandise materially injure or threaten material injury to a U.S. industry. If our investigation proceeds normally, we will make our preliminary determination on or before October 29, 1985.

EFFECTIVE DATE: August 30, 1985.

FOR FURTHER INFORMATION CONTACT: Rick Herring or Mary Martin, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230. Telephone: (202) 377-0187 or 377-3464.

SUPPLEMENTARY INFORMATION:

Petition

On August 5, 1985, we received a petition from the North Atlantic Fisheries Task Force on behalf of the United States groundfish industry which harvests and produces for sale Atlantic groundfish in fresh form. The North Atlantic Fisheries Task Force is an unincorporated association representing fishermen, fishermen's cooperatives, and processors located in the northeastern United States. A majority of the members of the Task Force are producers, wholesalers, or trade or business associations of producers or wholesalers who produce or wholesale

fresh Atlantic groundfish. In compliance with the filing requirements of § 355.28 of the Commerce Regulations (19 CFR 355.28), the petition alleges that producers or exporters in Canada of fresh Atlantic groundfish receive, directly or indirectly, benefits which constitute subsidies within the meaning of section 701 of the Tariff Act of 1930, as amended (the Act). Since Canada is a "country under the Agreement" within section 701(b) of the Act, Title VII of the Act applies to this investigation, and the ITC is required to determine whether imports of the subject merchandise from Canada materially injure, or threaten injury to, the U.S. industry.

We have received telephone calls and telexes from certain domestic processors objecting to the petition. We have also received telexes from domestic processors and fishermen supporting this petition. Neither the Act nor the regulations require a petitioner to establish affirmatively that it has the majority support of a particular industry. Thus, the Department relies on petitioner's representation that it has, in fact, filed on behalf of the domestic industry, until it is affirmatively shown that this is not the case. We have not yet been able to assess the extent to which the opposition we have received to this petition contradicts petitioner's claims that it has filed "on behalf of" U.S. industries. We will continue to examine this question.

On August 20, 23, and 28, 1985, the government of Canada exercised its right to consultation pursuant to Article 3:1 of the Agreement on Interpretation and Application of Articles VI, XVI, and XXIII of the General Agreement on Tariffs and Trade.

Initiation of Investigation

Under section 702(c) of the Act, we must determine, within 20 days after a petition is filed, whether the petition sets forth the allegations necessary for the initiation of a countervailing duty investigation and whether it contains information reasonably available to the petitioner supporting the allegations. We have examined this petition and we have found that the petition meets these requirements. Therefore, we are initiating a countervailing duty investigation to determine whether the producers or exporters in Canada of certain fresh Atlantic groundfish, as described in the "Scope of Investigation" section of this notice, receive benefits which constitute subsidies. If our investigation proceeds normally, we will make our preliminary determination on or before October 29, 1985.

Scope of Investigation

The products covered by this investigation are fesh whole and fresh fillets of Atlantic groundfish, including cod, haddock, pollack, hake, and flatfish (including flounder and sole). These species are generally referred to collectively as "groundfish" because they live on or near the seabed. The term "fresh" includes fish that are chilled, but excludes fish that have been frozen. Whole fish include fish which are whole, or processed by removal of heads, viscera, fins, or any combination thereof, but not otherwise processed. Fillets (including fish steaks) include fish, other than frozen blocks, which are otherwise processed (whether or not heads, viscera, fins, scales, or any combination thereof have been removed). These products are currently provided for in items 110.1585, 110.1593, 110.3560, 110.5000, 110.5545, 110.5585, and 110.7033 of the *Tariff Schedules of the United States, Annotated* (TSUSA).

Allegations of Subsidies

The petition alleges that producers or exporters in Canada of fresh Atlantic groundfish receive benefits which constitute subsidies. We are initiating on the following allegations:

A. Federal Programs

- Fishing Vessel Assistance Program
- Fisheries Improvement Loans Program
- Special Recovery Capital Projects Program
- Fishing Vessel Insurance Plan
- Import Duty Remission
- Unemployment Insurance Act of 1971
- Industrial and Regional Development Program
- Enterprise Development Program
- Investment Tax Credit
- Government Equity Infusions
- Program for Export Market Development
- Department of Fisheries and Oceans Marketing Services
- Assistance for the Construction of Icemaking and Fish Chilling Facilities
- Atlantic Fishery Management Program
- Federal Assistance for Bait

B. Joint Federal-Provincial Programs

- Economic and Regional Development Agreements Program
- Newfoundland and Labrador Development Corporation

C. Province of New Brunswick

- New Brunswick Fisheries Development Board
- The Fish Unloading Systems and Icemaking Facilities Board

- Fish Chilling Assistance Program
- Assistance for the Construction of Icemaking and Fish Chilling Facilities.
- Insurance Premium Prepayment Program
- Winterization of Fish Plants Program
- Marketing and Export Promotion

D. Province of Newfoundland

- Fishing Ships Bounty Program
- Fishing Vessel Assistance Plan
- Vessel Rebuilding Grant Program
- Loans and Loan Guarantees from the Newfoundland Fisheries Loan Board
- Newfoundland Bait Services Program
- Sales Tax Exemptions for Fishermen
- Newfoundland and Labrador Development Corporation
- Loan Deficiency Guarantee Program
- Secondary Processing Interest Subsidy Program
- Rural Development Loan Program
- Production Machinery and Processing Technology Program
- Market Development Information

E. Province of Nova Scotia

- Vessel Subsidy Plan
- Loans from the Nova Scotia Fisheries Loan Board
- Assistance from the Industrial Development Division
- Assistance for the Construction of Icemaking and Fish Chilling Facilities
- Gutting Machine Program
- Plant Development Program
- Marketing and Export Assistance

F. Province of Prince Edward Island

- Vessel Assistance Program
- The Near and Offshore Vessel Assistance Program
- Engine Conversion Program
- Commercial Fishermen's Investment Incentive Program
- Assistance for the Construction of Icemaking and Fish Chilling Facilities
- Fish Chilling Assistance Program
- Fisherman's Holding Unit Program
- Fish Box Pool Program

G. Province of Quebec

- Vessel Construction Assistance
- Gear Subsidy Program
- Insurance Premium Subsidy Program
- Technological Assistance Services for Business Program

We are not initiating on the following programs:

- Shipbuilders Assistance Program

This program grants to shipbuilding companies for vessels 75 feet or longer, built or converted in Canada. Grants are given both to fishing and other

commercial vessels which meet certain minimum weight requirements, depending on the vessel class. The grants are provided to the shipbuilders and not to the purchaser and, according to information in the petition, the program is designed to enable Canadian shipyards to offer internationally competitive prices and maintain economic viability. Petitioner has not provided us with any evidence that grants provided to shipbuilders confer benefits, directly or indirectly, to Canadian fishermen.

• *Capital Cost Allowance*

Revenue Canada permits taxpayers, in determining their taxable income, to deduct the capital cost of 37 specific classes of depreciable assets (including processing machinery and equipment and Canadian-built vessels). Petitioner alleges this program provides preferential treatment to fishermen. In *Certain Softwood Products from Canada* (48 FR 24159), we determined that this program was not counteravailable because it was not limited to a specific industry, group of industries, or to companies in specific regions. Petitioner has not provided us with additional information or evidence of changed circumstances to cause us to reexamine this program at this time.

• *Tax Exemption on Fuel*

Canadian fishermen are exempt from both the federal gasoline sales taxes paid on gasoline purchases and from the federal excise tax on diesel fuel. In *Certain Softwood Products from Canada* (48 FR 24159), we determined that the fuel tax exemption was not counteravailable because it did not provide benefits to a specific industry or group of industries. Petitioner has not provided us with additional information or evidence of changed circumstances to cause us to reexamine this program at this time. We are, however, initiating an investigation on the sales tax exemption for fuel for fishermen under a program administered by the province of Newfoundland since we did not investigate fuel tax exemptions in that province in *Certain Softwood Products from Canada* and since petitioner has alleged that the Newfoundland program is specifically for fishermen.

• *Sales Tax Exemptions*

Petitioner alleges that fishermen may be exempted from paying certain federal sales taxes. Because the government of Canada does not limit sales tax exemptions to a specific industry, group of industries, or to companies in specific regions, we are not initiating an investigation of this program.

Notification of ITC

Section 702(d) of the Act requires us to notify the ITC of this action, and to provide it with the information we used to arrive at this determination. We will notify the ITC and make available to it all nonprivileged and nonconfidential information. We will also allow the ITC access to all privileged and confidential information in our files, provided it confirms that it will not disclose such information, either publicly or under administrative protective order, without the written consent of the Deputy Assistant Secretary for Import Administration.

Preliminary Determination by ITC

The ITC will determine by September 19, 1985, whether there is a reasonable indication that imports of certain fresh Atlantic groundfish from Canada materially injure, or threaten material injury to, a U.S. industry. If its determination is negative, this investigation will terminate; otherwise, this investigation will continue according to the statutory procedures.

Gilbert B. Kaplan,

Acting Deputy Assistant Secretary for Import Administration.

August 28, 1985.

[FR Doc. 85-20824 Filed 8-29-85; 8:45 am]

BILLING CODE 3510-29-01

APPENDIX B

WITNESSES APPEARING AT THE COMMISSION'S CONFERENCE

CALENDAR OF PUBLIC CONFERENCE

Investigation No. 701-TA-257 (Preliminary)

CERTAIN FRESH ATLANTIC GROUND FISH FROM CANADA

Those listed below appeared as witnesses at the United States International Trade Commission's conference held in connection with the subject investigation on August 28, 1985, in the Hearing Room of the USITC Building, 701 E Street, NW., Washington, DC.

In support of the petition

Patton, Boggs, & Blow—Counsel
Washington, DC
on behalf of—

North Atlantic Fisheries Task Force

Salvatore Parisi, Executive Director
Cape Ann Vessels Association, Gloucester, MA

Jacob J. Dykstra, Captain F/V Janileen II
Pt. Judith, RI

Robert M. Gill, Executive Director
Boston Fisheries Association

James Costakes, General Manager
Seafood Producers Association, New Bedford, MA

Bart S. Fisher)
Michael D. Esch) —OF COUNSEL

In opposition to the petition

O'Melveny & Myers—Counsel
Washington, DC
on behalf of—

Fisheries Council of Canada

Mr. Ron Bulmer, President
Fisheries Council of Canada

Mr. Dave Bollivar
National Sea Products Ltd.

Robin Neill, Professor of Economics
Carlton University

Gary N. Horlick)
Judith Hippler Bello) —OF COUNSEL

In opposition to the petition

Quick, Finan & Associates
Washington, DC
on behalf of—

American Seafood Distributors Association

Perry D. Quick—Economic Consultant



APPENDIX C

EXCERPTS FROM THE TSUSA

TARIFF SCHEDULES OF THE UNITED STATES ANNOTATED (1985)

Page 1-14

SCHEDULE 1. - ANIMAL AND VEGETABLE PRODUCTS
Part 3. - Fish and Shellfish

1 - 3 - A

110.10 - 110.33

G S P	Item	Stat. Suf- fix	Articles	Units of Quantity	Rates of Duty		
					1	LDDC	2
	110.10		Fish, fresh, chilled, or frozen, whether or not whole, but not otherwise prepared or preserved:				
			Sea herring, smelts, and tuna.....	.....	Free		Free
			Smelts:				
		07	Fresh or chilled.....	Lb.			
		09	Frozen.....	Lb.			
			Tuna:				
		12	Albacore.....	Lb.			
			Yellowfin:				
		20	Whole fish.....	Lb.			
			Eviscerated fish:				
		25	Head-on.....	Lb.			
		30	Head-off.....	Lb.			
		37	Other.....	Lb.			
		45	Skipjack.....	Lb.			
		50	Other.....	Lb.			
			Sea herring:				
		60	Fresh or chilled.....	Lb.			
		70	Frozen.....	Lb.			
			Other:				
			Whole; or processed by removal of heads, viscera, fins, or any combination thereof, but not otherwise processed:				
	110.15		Cod, cusk, eels, haddock, hake, pollock, shad, sturgeon, and fresh-water fish.....	.....	Free		1c per lb.
			Fresh-water fish:				
			Whitefish:				
		05	Fresh or chilled.....	Lb.			
		15	Frozen.....	Lb.			
			Pike, pickerel, and pike perch (including yellow pike):				
		37	Fresh or chilled.....	Lb.			
		39	Frozen.....	Lb.			
		40	Lake trout.....	Lb.			
		50	Other trout.....	Lb.			
		75	Other.....	Lb.			
			Cod:				
		85	Fresh or chilled.....	Lb.			
		89	Frozen.....	Lb.			
			Cusk, haddock, hake, and pollock:				
		93	Fresh or chilled.....	Lb.			
		97	Frozen.....	Lb.			
		99	Eels, shad, and sturgeon.....	Lb.			
	110.20		Halibut and salmon.....	.....	Free		2c per lb.
			Halibut:				
		25	Fresh or chilled.....	Lb.			
		30	Frozen.....	Lb.			
			Salmon:				
		45	Fresh or chilled.....	Lb.			
		50	Frozen.....	Lb.			
			Mackerel:				
	110.25	00	Fresh or chilled.....	Lb.....	Free		2c per lb.
A	110.28	00	Frozen.....	Lb.....	0.08c per lb.	Free	2c per lb.
			Swordfish:				
	110.30	00	Fresh or chilled.....	Lb.....	Free		2c per lb.
	110.33	00	Frozen.....	Lb.....	Free		3c per lb.

Note: For explanation of the symbol "A" or "A*" in the column entitled "GSP", see general headnote 3(c).

TARIFF SCHEDULES OF THE UNITED STATES ANNOTATED (1985)

SCHEDULE 1. - ANIMAL AND VEGETABLE PRODUCTS
Part 3. - Fish and Shellfish

C S P	Item	Stat. Suf- fix	Articles	Units of Quantity	Rates of Duty				
					1	LDDC	2		
A	110.35	52	Fish, fresh, chilled, or frozen, etc. (con.): Other (con.): Whole; or processed by removal, etc. (con.): Other.....	Lb.....	0.5c per lb.		1c per lb.		
			Atlantic ocean perch.....	Lb.					
			Flounders and other flatfish, except halibut:						
			Fresh or chilled.....	Lb.					
			Frozen.....	Lb.					
			Other:						
			Fresh or chilled.....	Lb.					
			Frozen.....	Lb.					
			110.36		If products of Cuba (except Atlantic ocean perch (rosefish) and totoaba or white sea bass).....	0.4c per lb. (s)		
			110.40	00	Scaled (whether or not heads, viscera, fins, or any combination thereof have been re- moved), but not otherwise processed: In bulk or in immediate containers weighing with their contents over 15 pounds each.....	Lb.....	Free		1.25c per lb.
			110.45	00	Other.....	Lb.....	6% ad val.		25% ad val.
			110.47		Skimmed and boned, whether or not divided into pieces, and frozen into blocks each weighing over 10 pounds, imported to be minced, ground, or cut into pieces of uniform weights and dimensions.....	Free		1.25c per lb.
				10	Cod.....	Lb.			
				24	Flatfish:				
				26	Turbot.....	Lb.			
	30	Other.....	Lb.						
	40	Haddock.....	Lb.						
	55	Pollock.....	Lb.						
	60	Whiting.....	Lb.						
	65	Atlantic ocean perch (rosefish).....	Lb.						
		Other.....	Lb.						
		Otherwise processed (whether or not heads, viscera, fins, scales, or any combination thereof have been removed): Cod, cusk, haddock, hake, pollock, and Atlantic ocean perch (rosefish): For an aggregate quantity entered in any calendar year of 15,000,000 pounds, or not more than a quantity equal to 15% of the average aggregate apparent annual consumption of such fish during the 3 calendar years immediately preceding the year in which the imported fish are entered, whichever quantity is greater, of which total quantity not over 1/4 shall be entered during the first 3 months, not over 1/2 during the first 6 months, and not over 3/4 during the first 9 months of that year....	Lb.....	1.875c per lb.		2.5c per lb.			
	110.50	00							

(s) = Suspended. See general headnote 3(b).

Note: For explanation of the symbol "A" or "A+" in
the column entitled "CSP", see general headnote 3(c).

TARIFF SCHEDULES OF THE UNITED STATES ANNOTATED (1985)

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SCHEDULE 1. - ANIMAL AND VEGETABLE PRODUCTS
Part 3. - Fish and Shellfish

1 - 3 - A, B
110.55 - 111.18

G S P	Item	Stat. Suf- fix	Articles	Units of Quantity	Rates of Duty		
					1	LDDC	2
	110.55	20	Fish, fresh, chilled, or frozen, etc. (con.): Other (con.): Otherwise processed, etc. (con.): Cod, cusk, haddock, etc. (con.): Other.....	.....	2.04c per lb.	1.875c per lb.	2.5c per lb.
			Atlantic ocean perch (rose- fish).....	Lb.			
			Cod:				
		45	Fresh or chilled.....	Lb.			
		50	Frozen.....	Lb.			
			Cusk, haddock, hake, and pollock:				
		65	Fresh or chilled.....	Lb.			
		70	Frozen.....	Lb.			
	110.57	10	Wolf fish (sea catfish).....	.....	Free		2.5c per lb.
		20	Fresh or chilled.....	Lb.			
	110.65	10	Yellow perch.....	.....	0.2% ad val.	Free	1% ad val.
		20	Fresh or chilled.....	Lb.			
	110.70	20	Frozen.....	Lb.			
			Other.....	.....	Free		2.5c per lb.
			Fresh-water fish:				
			Pike, pickerel, and pike perch (including yellow pike):				
		05	Fresh or chilled.....	Lb.			
		15	Frozen.....	Lb.			
		24	Catfish.....	Lb.			
		28	Other.....	Lb.			
			Flatfish, except halibut:				
		33	Fresh or chilled.....	Lb.			
			Frozen:				
		38	Turbot.....	Lb.			
		39	Other.....	Lb.			
		40	Halibut.....	Lb.			
		70	Salmon.....	Lb.			
		80	Other.....	Lb.			
Subpart B. - Fish, Dried, Salted, Pickled, Smoked, or Kippered							
Subpart B headnote:							
1. In this subpart, the term "dried" means dried (but not salted, pickled, smoked, or kippered), the term "salted or pickled" means salted or pickled (whether or not dried, but not smoked or kippered), and the term "smoked or kippered" means smoked or kippered (whether or not dried, salted, or pickled).							

			Fish, dried, whether or not whole, but not otherwise prepared or preserved, and not in airtight containers:				
A	111.10	00	Cod, cusk, haddock, hake, and pollock.....	Lb.....	0.1c per lb.		2.5c per lb.
A	111.15	00	Shark fins.....	Lb.....	0.2c per lb.		1.25c per lb.
A	111.18	00	Other.....	Lb.....	0.1c per lb.		1.25c per lb.
Note: For explanation of the symbol "A" or "A+" in the column entitled "GSP", see general headnote 3(c).							

